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RECORDS OF THE UNITED STATES

NUERNBERG WAR CRIMES TRIALS

UNITED STATES OF AMERICA V. KARL BRANDT ET AL. (CASE I)

NOVEMBER 21, 1946-AUGUST 20, 1947

Roll 36

Prosecution Closing Statements and Briefs
on All Defendants
(English and German Versions)



THE NATIONAL ARCHIVES
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INTRODUCTION

On the 46 rolls of this microfilm publication are reproduced the records of Case I (*United States of America v. Karl Brandt et al.*, or the "Medical" Case), 1 of the 12 trials of war criminals conducted by the U.S. Government from 1946 to 1949 at Nuernberg subsequent to the International Military Tribunal held in the same city. These records consist of German- and English-language versions of official transcripts of court proceedings, prosecution and defense briefs, and final pleas of the defendants as well as prosecution and defense exhibits and document books in one language or the other. Also included in this publication are a minute book, the official court file, order and judgment books, clemency petitions, and finding aids to the documents.

The transcripts of this trial, assembled in 2 sets of 30 bound volumes (1 set in German and 1 in English), are the recorded daily trial proceedings. The prosecution and defense briefs and answers are also in both languages but unbound, as are the final pleas of the defendants delivered by counsel or defendants and submitted by the attorneys to the court. The unbound prosecution exhibits, numbered 1-570, are essentially those documents from various Nuernberg record series offered in evidence by the prosecution in this case. The defense exhibits, also unbound, are predominantly affidavits by various persons. They are arranged by name of defendant and thereunder numerically. Both prosecution document books and defense document books consist of full or partial translations of exhibits into the English language. Loosely bound in folders, they provide an indication of the order in which the exhibits were presented before the tribunal.

The minute book, in one bound volume, is a summary of the transcripts. The official court file, in four bound volumes, includes the progress docket, the indictment, amended indictment, and the service thereof; appointments and applications of defense counsel and defense witnesses and prosecution comments thereto; defendants applications for documents; motions; uniform rules of procedures; and appendixes. The order and judgment books, in two bound volumes, represent the signed orders, judgments, and opinions of the tribunal as well as sentences and commitment papers. Clemency petitions of the defendants, in five bound volumes, were directed to the military governor, the Judge Advocate General, the U.S. district court, the Secretary of Defense, and the Supreme Court of the United States. The finding aids summarize transcripts, exhibits, and the official court file.

Case I was heard by U.S. Military Tribunal I from November 21, 1946, to August 20, 1947. The records of this case, as the

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records of the other Nuernberg and Far East (IMTFE) war crimes trials, are part of the National Archives Collection of World War II War Crimes Records, Record Group 238.

The Brandt case was 1 of 12 separate proceedings held before several U.S. Military Tribunals at Nuernberg in the U.S. Zone of Occupation in Germany against officials or citizens of the Third Reich, as follows:

<u>Case No.</u>	<u>United States v.</u>	<u>Popular Name</u>	<u>No. of Defendants</u>
1	<i>Karl Brandt et al.</i>	Medical Case	23
2	<i>Erhard Milch</i>	Milch Case (Luftwaffe)	1
3	<i>Josef Altstoetter et al.</i>	Justice Case	16
4	<i>Oswald Pohl et al.</i>	Pohl Case (SS)	18
5	<i>Friedrich Flick et al.</i>	Flick Case (Industrialist)	6
6	<i>Carl Krauch et al.</i>	I. G. Farben Case (Industrialist)	24
7	<i>Wilhelm List et al.</i>	Hostage Case	12
8	<i>Ulrich Greifelt et al.</i>	RuSHA Case (SS)	14
9	<i>Otto Ohlendorf et al.</i>	Einsatzgruppen Case (SS)	24
10	<i>Alfried Krupp et al.</i>	Krupp Case (Industrialist)	12
11	<i>Ernst von Weizsaecker et al.</i>	Ministries Case	21
12	<i>Wilhelm von Leeb et al.</i>	High Command Case	14

Authority for the proceedings of the International Military Tribunal against the major Nazi war criminals derived from the Declaration on German Atrocities (Moscow Declaration) released November 1, 1943, Executive Order 9547 of May 2, 1945, the London Agreement of August 8, 1945, the Berlin Protocol of October 6, 1945, and the Charter of the International Military Tribunal.

Authority for the 12 subsequent cases stemmed mainly from Control Council Law 10 of December 20, 1945, and was reinforced by Executive Order 9679 of January 16, 1946; U.S. Military Government Ordinances Nos. 7 and 11 of October 18, 1946, and February 17, 1947, respectively; and U.S. Forces, European Theater General Order 301 of October 24, 1946. The procedures applied by U.S. Military Tribunals in the subsequent proceedings were patterned after those of the International Military Tribunal and further developed in the 12 cases, which required over 1,200 days of court sessions and generated more than 330,000 transcript pages.

The crimes charged in the Brandt case consisted largely of medical experiments performed on defenseless concentration camp inmates against their will; "euthanasia" carried out on the mentally defective, the physically sick, the aged, and ethnic and racial groups; and the murder of concentration camp inmates for the express purpose of collecting skulls and skeletons for the Anatomical Institute of the Reich University of Strassburg. The following medical experiments were conducted:

1. High altitude: to investigate effects of low pressure on persons.
2. Freezing: to test human resistance to extremely low temperatures.
3. Malaria: to develop controls over the recurring nature of the disease.
4. Mustard gas: part of a general research program in gas warfare.
5. Sulfanilamide: to test the efficacy of the drug in bone muscle and nerve regeneration and bone transplantation.
6. Seawater: to test methods of rendering seawater potable.
7. Epidemic jaundice: to develop an antitoxin against the disease.
8. Sterilization: to test techniques for preventing further propagation of the mentally and physically defective.
9. Typhus: to investigate the value of various vaccines.
10. Poison: to test the efficacy of certain poisons.
11. Incendiary bomb: to find better treatment for phosphorus burns.

The prosecution alleged and the judgment confirmed that these experiments were not isolated acts of individual doctors and scientists on their own responsibility but that they were the result of high-level policy and planning. They were carried out with particular brutality, often disregarding all established medical practice. Consequently, large numbers of the victims died in the course of or as a result of the experiments.

The euthanasia program was the direct result of a directive by Hitler of September 1, 1939. It resulted in the secret killing not only of aged, insane, incurably ill, and deformed German citizens in sanatoriums in Germany but also in the clandestine murder of foreign workers. The killing in gas chambers and by injections in the sanatoriums served as a proving ground for these forerunners of much larger installations in the mass extermination camps.

In addition to these experiments, over 100 concentration camp inmates were killed for the purpose of obtaining their skeletons. Their ghastly remains were found in Strassburg by Allied troops.

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The transcripts of the Brandt case include the indictments of the following 23 persons all of whom were physicians except defendants Rudolf Brandt, Viktor Brack, and Wolfram Sievers:

Karl Brandt: Personal physician to Adolf Hitler, Gruppenfuehrer in the SS and Generalleutnant (Major General) in the Waffen SS, Reichskommissar fuer Sanitaets- und Gesundheitswesen (Reich Commissioner for Health and Sanitation), and member of the Reichsforschungsrat (Reich Research Council).

Kurt Blome: Deputy [of the] Reichsgesundheitsfuehrer (Reich Health Leader) and Plenipotentiary for Cancer Research in the Reich Research Council.

Rudolf Brandt: Standartenfuehrer (Colonel) in the Allgemeine SS, Persoenlicher Referent von Himmler (Personal Administrative Officer to Reichsfuehrer SS Himmler), and Ministerial Counselor and Chief of the Ministerial Office in the Reich Ministry of the Interior.

Joachim Mrugowsky: Oberfuehrer (Senior Colonel) in the Waffen SS, Oberster Hygieniker, Reichsarzt SS und Polizei (Chief Hygienist of the Reich Physician SS and Police), and Chef des Hygienischen Institutes der Waffen SS (Chief of the Hygienic Institute of the Waffen SS).

Helmut Poppendick: Oberfuehrer in the SS and Chef des Persoenlichen Stabes des Reichsarztes SS und Polizei (Chief of the Personal Staff of the Reich Physician SS and Police).

Wolfram Sievers: Standartenfuehrer in the SS, Reich Manager of the "Ahnenerbe" Society and Director of its Institut fuer Wehrwissenschaftliche Zweckforschung (Institute for Military Scientific Research), and Deputy Chairman of the Managing Board of Directors of the Reich Research Council.

Karl Genzken: Gruppenfuehrer in the SS and Generalleutnant in the Waffen SS and Chef des Sanitaetsamts der Waffen SS (Chief of the Medical Department of the Waffen SS).

Karl Gebhardt: Gruppenfuehrer in the SS and Generalleutnant in the Waffen SS, personal physician to Reichsfuehrer SS Himmler, Oberster Kliniker, Reichsarzt SS und Polizei (Chief Surgeon of the Staff of the Reich Physician SS and Police), and President of the German Red Cross.

Viktor Brack: Oberfuehrer in the SS and Sturmbannfuehrer (Major) in the Waffen SS and Oberdienstleiter, Kanzlei des Fuehrers der NSDAP (Chief Administrative Officer in the Chancellery of the Fuehrer to the NSDAP).

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Waldemar Hoven: Hauptsturmfuehrer (Captain) in the Waffen SS and Chief Physician of the Buchenwald Concentration Camp.

Herta Oberheuser: Physician at the Ravensbrueck Concentration Camp and assistant physician to the defendant Gebhardt at the hospital at Hohenlychen.

Fritz Fischer: Sturmbannfuehrer in the Waffen SS and assistant physician to the defendant Gebhardt at the hospital at Hohenlychen.

Siegfried Handloser: Generaloberstabsarzt (Lieutenant General, Medical Service), Heeressanitaetsinspekteur (Medical Inspector of the Army), and Chef des Wehrmachtsanitaetswesens (Chief of the Medical Services of the Armed Forces).

Paul Rostock: Chief Surgeon of the Surgical Clinic in Berlin, Surgical Adviser to the Army, and Amtschef der Dienststelle Medizinische Wissenschaft und Forschung (Chief of the Office for Medical Science and Research) under the defendant Karl Brandt, Reich Commissioner for Health and Sanitation.

Oskar Schroeder: Generaloberstabsarzt; Chef des Stabes, Inspekteur des Luftwaffe-Sanitaetswesens (Chief of Staff of the Inspectorate of the Medical Service of the Luftwaffe); and Chef des Sanitaetswesens der Luftwaffe (Chief of the Medical Service of the Luftwaffe).

Hermann Becker-Freyseng: Stabsarzt in the Luftwaffe (Captain, Medical Service of the Air Force) and Chief of the Department for Aviation Medicine of the Medical Service of the Luftwaffe.

Georg August Weltz: Oberfeldarzt in the Luftwaffe (Lieutenant Colonel, Medical Service of the Air Force) and Chief of the Institut fuer Luftfahrtmedizin (Institute for Aviation Medicine) in Munich.

Wilhelm Beiglboeck: Consulting physician to the Luftwaffe.

Gerhard Rose: Generalarzt of the Luftwaffe (Brigadier General, Medical Service of the Air Force); Vice President, Chief of the Department for Tropical Medicine, and Professor of the Robert Koch Institute; and Hygienic Adviser for Tropical Medicine to the Chief of the Medical Service of the Luftwaffe.

Siegfried Ruff: Director of the Department for Aviation Medicine at the Deutsche Versuchsanstalt fuer Luftfahrt (German Experimental Institute for Aviation).

Hans Wolfgang Romberg: Physician on the staff of the Department for Aviation Medicine at the German Experimental Institute for Aviation.

Konrad Schaefer: Physician on the staff of the Institute for Aviation Medicine in Berlin.

Adolf Pokorny: Physician, specialist in skin and venereal diseases.

The indictment consisted of four counts. Count one charged participation in a common design or conspiracy to commit war crimes or crimes against humanity. The ruling of the tribunal disregarded this count, hence no defendant was found guilty of the crime charged in count one. Count two was concerned with war crimes and count three, with crimes against humanity. Fifteen defendants were found guilty, and eight were acquitted on these two counts. Ten defendants were charged under count four with membership in a criminal organization and were found guilty.

The transcripts also contain the arraignment and plea of each defendant (all pleaded not guilty), opening and closing statements of defense and prosecution, and the judgment and sentences, which acquitted 7 of the 23 defendants (Blome, Pokorny, Romberg, Rostock, Ruff, Schaefer, and Weltz). Death sentences were imposed on defendants Brack, Karl Brandt, Rudolf Brandt, Hoven, Gebhardt, Mrugowsky, and Sievers, and life imprisonment on Fischer, Genzken, Handloser, Rose, and Schroeder; varying terms of years were given to defendants Becker-Freyseng, Beiglboeck, Oberheuser, and Poppendick.

The English-language transcript volumes are arranged numerically, 1-30; pagination is continuous, 1-11538. The German-language transcript volumes are numbered 1a-30a and paginated 1-11756. The letters at the top of each page indicate morning, afternoon, and evening sessions. The letter "C" designates commission hearings (to save court time and to avoid assembling hundreds of witnesses at Nuernberg, in most of the cases one or more commissions took testimony and received documentary evidence for consideration by the tribunals). Several hundred pages are added to the transcript volumes and given number plus letter designations, such as page number 1044a. Page 1 in volume 1 (English) is preceded by pages numbered 001-039, while the last page of volume 28 (English) is followed by pages numbered 1-48.

Of the many documents assembled for possible prosecution use, 570 were chosen for presentation as evidence before the tribunal. These consisted largely of orders, directives, and reports on medical experiments or the euthanasia program; several interrogation reports; affidavits; and excerpts from the *Reichsgesetzblatt* (the official gazette of Reich laws) as well as correspondence. A number

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of the medical reports were accompanied by series of photographs and charts of various experiments.

The first item in the arrangement of the prosecution exhibits is usually a certificate listing the document number, a short description of the exhibit, and a statement on the location of the original document of the exhibit. The certificate is followed by the document, the actual prosecution exhibit (most of which are photostats), and a few mimeographed articles with an occasional carbon of the original. In rare cases the exhibits are followed by translations or additional certificates. A few exhibits are original documents, such as:

<u>Exhibit No.</u>	<u>Doc. No.</u>	<u>Exhibit No.</u>	<u>Doc. No.</u>
301	NO-1314	410	NO-158.
307	NO-120	441	NO-1730
309	NO-131	443	NO-890
310	NO-132	451	NO-732
357	1696 PS	462	NO-1424
362	628 PS	507	NO-365
368	NO-817	546	NO-3347
403	616 PS		

No certificate is attached to several exhibits, including exhibits 433, 435-439, 462, 559, and 561. Following exhibit 570 is a tribunal exhibit containing the interrogation of three citizens of the Netherlands. Number 494 was not assigned, and exhibit 519 is followed by 519a and 519b.

Other than affidavits, the defense exhibits consist of newspaper clippings, reports, personnel records, *Reichsgesetzblatt* excerpts, and other items. There are 901 exhibits for the defendants. The defense exhibits are arranged by name of defendant and thereunder by exhibit number, each followed by a certificate wherever available.

The translations in the prosecution document books are preceded by indexes listing prosecution document numbers, biased descriptions, and page numbers of the translation. They are generally listed in the order in which the prosecution exhibits were introduced into evidence before the tribunal. Pages 81-84 of prosecution document book 1 are missing. Books 12, 16, and 19 are followed by addenda. The document books consist largely of mimeographed pages.

The defense document books are similarly arranged. Each book is preceded by an index giving document numbers, description, and page number for each exhibit. The corresponding exhibit numbers are generally not provided. There are several unindexed supplements to numbered document books. Prosecution and defense briefs are arranged alphabetically by names of defendants; final pleas and defense answers to prosecution briefs follow a similar

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scheme. Pagination is consecutive, yet there are many pages where an "a" or "b" is added to the numeral.

The English-language final pleas, closing briefs, and replies to prosecution briefs of several defendants are missing, as are a few German-language closing briefs and replies to prosecution briefs.

At the beginning of roll 1 are filmed key documents from which Tribunal I derived its jurisdiction: the Moscow Declaration, U.S. Executive Orders 9547 and 9679, the London Agreement, the Berlin Protocol, the Charter of the International Military Tribunal, Control Council Law 10, U.S. Military Government Ordinances 7 and 11, and U.S. Forces, European Theater General Order 301. Following these documents of authorization is a list of the names and functions of the members of Tribunal I and counsels.

These documents are followed by the transcript covers giving such information as name and number of case, volume numbers, language, page numbers, and inclusive dates. They are followed by summaries of the daily proceedings providing an additional finding aid for the transcripts. The exhibits are listed in an index, which notes type of exhibit, exhibit number and name, corresponding document number and document book and page, a short description of the exhibit, and the date when it was offered in court. The official court file is indexed in the court docket, which is followed by a list of witnesses.

Not filmed were records duplicated elsewhere in this microfilm publication, such as prosecution and defense document books in the German language that are largely duplications of prosecution and defense exhibits already microfilmed or opening statements of prosecution and defense, which can be found in the transcripts of the proceedings.

The records of the Brandt case are closely related to other microfilmed records in Record Group 238, specifically prosecution exhibits submitted to the International Military Tribunal, T988; NI (Nuernberg Industrialist) Series, T301; NOKW (Nuernberg Armed Forces High Command) Series, T1119; NG (Nuernberg Government) Series, T1139; and records of the Milch case, M888, the List case, M893, the Greifelt case, M894, and the Ohlendorf case, M895. In addition, the record of the International Military Tribunal at Nuernberg has been published in *Trial of the Major War Criminals Before the International Military Tribunal* (Nuernberg, 1947), 42 vols. Excerpts from the subsequent proceedings have been published as *Trials of War Criminals Before the Nuernberg Military Tribunal Under Control Council Law No. 10* (U.S. Government Printing Office: 1950-53), 15 vols. The Audiovisual Archives Division of the National Archives and Records Service holds motion picture records and photographs of all 13 trials and tape recordings of the International Military Tribunal proceedings.

John Mendelsohn wrote these introductory remarks and arranged
the records for microfilming in collaboration with George Chalou.

M I L I T A R Y T R I B U N A L N O . I

CASE NO. 1

U. S. v. KARL BRANDT, ET AL.

CLOSING ARGUMENT FOR
THE UNITED STATES OF AMERICA

Dr. Leo Alexander
Medical Consultant

J. M. McHaney
Alexander G. Hardy
Arnost Worlik-Hochwald
Esther Jane Johnson

For:

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War Crimes

Nurnberg,
14 July 1947



INTRODUCTION

Today marks the closing week of this trial, which began on December 9, 1946. Today we have behind us 133 trial days, approximately 33 of which were consumed by the Prosecution in presenting the case-in-chief and rebuttal evidence. Thirty-two witnesses gave evidence orally for the Prosecution and thirty witnesses, in addition to the twenty-three defendants, gave evidence for the Defense. The Prosecution submitted in evidence 570 exhibits, most of which were German documents captured by the Allied armies. Defense exhibits totalled 855, consisting primarily of affidavits. By the time the judgment has been read, the record will exceed 12,000 pages.

It is appropriate, in looking back over the history of this proceeding, to note the fairness with which the trial has been conducted. Whatever the defendants could say in their behalf, they were allowed to say. The Tribunal has been unstinting in its efforts to procure such witnesses, documents, and facilities as the Defense has requested. As Justice Jackson has stated, "They have been given the kind of a trial, which they, in the days of their pomp and power, never gave to any man."¹ Several of these defendants are peculiarly able to appreciate that fact to the fullest. The defendant Karl Brandt, for example, is no stranger to Nazi justice. In April 1945, as a result of difficulties with Hitler and Bormann, he was afforded a trial of a few hours on a charge of treason. Tried by an SS Obergruppenfuhrer, he was sentenced to death. Only the confusion of the dying days of the war saved him for this reunion. Brandt admitted to this Tribunal that there was some fault to be found with

1. I.M.T. transcript, p. 14333

that trial because, as he put it, "the sentence had been established beforehand."¹

The responsibility of a fair trial to the defendants has been discharged. So also for the Prosecution has that obligation to the peoples and races on whom the scourge of these crimes was laid. The crimes which these defendants perpetrated in the name of medical science have been established by clear and overwhelming proof which is indelibly written in the record of this proceeding. No one can doubt that these incredible events were fact and not fable. The time for suspended judgment is now passed. The time for decision has been reached.

The Law of the Case

Before proceeding to outline the Prosecution's case, it may perhaps be desirable to anticipate several legal questions which will undoubtedly be raised with respect to War Crimes and Crimes against Humanity, as defined in Article II of Control Council Law No. 10. Law No. 10 is, of course, the law of this case and its terms are conclusive upon every party to this proceeding. This Tribunal is, we respectfully submit, bound by the definitions in Law No. 10, just as the International Military Tribunal was bound by the definitions in the London Charter. It was stated in the I.M.T. Judgment that:

"The jurisdiction of the Tribunal is defined in the Agreement and Charter, and the crimes coming within the jurisdiction of the Tribunal, for which there shall be individual responsibility, are set out in Article 6. The law of the Charter is decisive, and binding upon the Tribunal.....

1. Transcript, p. 2622

"The Tribunal is, of course, bound by the Charter, in the definition which it gives both of War Crimes and Crimes against Humanity."¹

In outlining briefly the Prosecution's conception of some of the legal principles underlying War Crimes and Crimes against Humanity, I shall, with the Tribunal's permission, adopt some of the language from the opening statement of the Prosecution in the case against Friedrich Flick, et al., now pending before Tribunal No. IV. General Taylor there said:

"The definitions of crimes in Law No. 10, and the comparable definitions in the London Agreement and Charter of 8 August 1945, are statements and declarations of what the law of nations was at that time and before that time. They do not create 'new' crimes; Article II of Law No. 10 states that certain acts are 'recognized' as crimes. International law does not spring from legislation; it is a 'customary' or 'common' law which develops from the 'usages established among civilized peoples' and the 'dictates of the public conscience.'² As they develop, these usages and customs become the basis and reason for acts and conduct, and from time to time they are recognized in treaties, agreements, declarations, and learned texts. The London Charter and Law No. 10 are important items in this stream of acts and declarations through which international law grows; they are way stations from which the outlook is both prospective and retrospective, but they are not retroactive. Mr. Henry L. Stimson has recently expressed these principles with admirable clarity:³

'International law is not a body of authoritative codes or statutes; it is the gradual expression, case by case, of the moral judgments of the civilized world. As such, it corresponds precisely to the common law of Anglo-American tradition. We can understand the law of Nuremberg only if we see it for what it is - a great new case in the book of enforcement of codified statutes'.

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1. Trial of the Major War Criminals, Vol. 1, pp. 218, 253
 2. Hague Convention No. IV of 18 October, 1907.
 3. The Nuremberg Trial: Landmark in Law, Henry L. Stimson published in "Foreign Affairs", January 1947.

"Law No. 10 is all this and something more besides. It is a legislative enactment by the Control Council, and is therefore part of the law of and within Germany. One of the infirmities of dictatorship is that, when it suffers irretrievable and final military disaster, it usually crumbles into nothing and leaves the victims of its tyranny leaderless amidst political chaos. The Third Reich had ruthlessly hunted down every man and woman in Germany who sought to express political ideas or develop political leadership outside of the bestial ideology of Nazism. When the Third Reich collapsed, Germany tumbled into a political vacuum. The Declaration by the Allied Powers of 5 June, 1945, announced the 'assumption of supreme authority' in Germany 'for the maintenance of order' and 'for the administration of the country', and recited that:

'There is no central government or authority in Germany capable of accepting responsibility for the maintenance of order, the administration of the country, and compliance with the requirements of the victorious powers.'

"Following this declaration, the Control Council was constituted as the repository of centralized authority in Germany. Law No. 10 is an enactment of that body, and is the law of Germany, although its substantive provisions derive from and embody the law of nations. The Nurnberg Military Tribunals are established under the authority of Law No. 10,¹ and they render judgment not only under international law as declared in Law No. 10, but under the law of Germany as enacted in Law No. 10. The Tribunals, in short, enforce both international law and German law, and in interpreting and applying Law No. 10, they must view Law No. 10 not only as a declaration of international law, but as an enactment of the occupying powers for the governance of and administration of justice in Germany. The enactment of Law No. 10 was an exercise of legislative power by the four countries to which the Third Reich surrendered, and, as was held by the International Military Tribunal:²

'.....the undoubted right of these countries to legislate for the occupied territories has been recognized by the civilized world.'

War Crimes are defined in Law No. 10 as atrocities or offenses in violation of the laws or customs of war. This definition is based primarily upon the Hague Conventions of

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1. Control Council Law No. 10, Article III, par. 1 (d) and 2; Military Government Ordinance No. 7, Article II.
 2. Judgment of the International Military Tribunal, Vol. I, Trial of the Major War Criminals, p. 218.

1907 and the Geneva Convention of 1929, which declare the law of nations at those times with respect to land warfare, the treatment of prisoners of war, the rights and duties of a belligerent power when occupying territory of a hostile state, and other matters. The laws and customs of war apply between belligerents, but not domestically or among allies. Crimes by German nationals against other German nationals are not War Crimes, nor are acts by German nationals against Hungarians or Roumanians. The War Crimes charged in this Indictment all occurred after 1 September 1939, and it is therefore unnecessary to consider the somewhat narrow limitation of the scope of War Crimes by the International Military Tribunal to acts committed after the outbreak of war. One might argue that the occupations of Austria and the Sudetenland in 1938 and of Bohemia and Moravia in March 1939 were sufficiently similar to a state of belligerency to bring the laws of war into effect but such questions are academic for purposes of this case.

However, in the case of some of the defendants, and this is especially true with respect to Gebhardt, Fischer, and Oberhauser in connection with the sulfonilamide experiments, it is to be expected that the argument will be made that crimes against Polish, and perhaps also Czech, nationals do not constitute War Crimes within the meaning of Control Council Law No. 10. This argument is based upon the proposition that Germany was no longer bound by the rules of land warfare in many of the territories occupied during the war because Germany had completely subjugated those countries and incorporated them into the German Reich, and therefore Germany had the authority to deal with the occupied countries as though they were part of Germany. Thus, the defense placed in evidence the Russo-German Boundary and Friendship Treaty of 30 December 1939 as well as certain German decrees

concerning the administration of occupied Poland.¹
Without stopping to argue the point that that part of Poland administered by the so-called General Government, from which came the Polish subjects for the sulfanilamide experiments, was never incorporated into the Reich, it will be sufficient to point out that this argument was disposed of by the International Military Tribunal. In its Judgment, the following was said:

"In the view of the Tribunal, it is unnecessary in this case to decide whether this doctrine of subjugation, dependent as it is upon military conquest, has any application where the subjugation is the result of the crime of aggressive war. The doctrine was never considered to be applicable so long as there was any army in the field attempting to restore the occupied countries to their true owners, and in this case, therefore, the doctrine could not apply to any territories occupied after 1 September 1939."

The argument also has no validity with respect to Czech nationals. The International Military Tribunal said that:

"As to War Crimes committed in Bohemia and Moravia, it is a sufficient answer that these territories were never added to the Reich, but a mere protectorate was established over them."²

In connection with the charge of Crimes against Humanity, it is also anticipated that an argument will be made by the defense to the effect that crimes committed by German nationals against other German nationals cannot constitute Crimes against Humanity as defined by Article II of Control Council Law No. 10 and hence are not within

1. Gebhardt Exhibits 13, 14 and 15.

2. Trial of the Major War Criminals, Vol. 1, p. 254.

the jurisdiction of this Tribunal. The evidence of the Prosecution has proved that in substantially all of the experiments prisoners of war or civilians from German occupied territories were used as subjects. This proof stands uncontradicted save by general statements of the defendants that they were told by Himmler or some unidentified person that the experimental subjects were all German criminals or that the subjects all spoke fluent German. Thus, for the most part, the acts here in issue constitute War Crimes and hence, at the same time, Crimes against Humanity. Certainly there has been no proof whatever that an order was ever issued restricting the experimental subjects to German criminals as distinguished from non-German nationals. If, in this or that minor instance, the proof has not disclosed the precise nationality of the unfortunate victims or has even shown them to be Germans, we may rest assured that it was merely a chance occurrence.

Be that as it may, the Prosecution does not wish to ignore a challenge to the jurisdiction of the Tribunal even though it is of minor importance to this case. One thing should be made clear at the outset: we are not here concerned with any question as to jurisdiction over crimes committed before September 1, 1939, whether against German nationals or otherwise. That subject has been mooted and is in issue in another case now on trial, but the crimes in this case all occurred after the war began.

Moreover, we are not concerned with the question whether Crimes against Humanity must have been committed "in execution of or in connection with any crimes within the jurisdiction of the Tribunal". The International Military Tribunal construed its Charter as requiring that

Crimes against Humanity be committed in execution of, or in connection with, the crime of aggressive war. Whatever the merit of that holding, the language of the Charter of the International Military Tribunal which led to it is not included in the definition of Crimes against Humanity in Control Council Law No. 10. There can be no doubt that Crimes against Humanity as defined in Law No. 10 stand on an independent footing and constitute crimes per se. In any event, the crimes with which this case is concerned were in fact all "committed in execution of, or in connection with, the aggressive war". This is true not only of the medical experiments, but also of the euthanasia program, pursuant to which a large number of non-German nationals were killed. The Judgment of the International Military Tribunal expressly so holds.¹

Thus, it is clear that the only issue which is raised in this case as to Crimes against Humanity is whether the Tribunal has jurisdiction over crimes committed by Germans against Germans. Does the definition of Crimes against Humanity in Control Council Law No. 10 comprehend crimes by Germans against Germans of the type with which this case is concerned. The provisions of Law No. 10 are binding upon the Tribunal as the law to be applied to the case.² The provisions of Section 1(c) of Article IX are clear and unambiguous. Crimes against Humanity are there defined as:

"Atrocities and offenses, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, rape, or other inhumane acts committed against any civilian population or persecutions on political, racial or religious grounds whether or not in violation of the domestic laws of the country where perpetrated."

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1. Trial of the Major War Criminals, pp. 231, 247, 252, 254, 301
 2. Trial of the Major War Criminals, pp. 174, 253.

The words "any civilian population" cannot possibly be construed to exclude German civilians. If Germans are deemed to be excluded, there is little or nothing left to give purpose to the concept of Crimes against Humanity. War Crimes include all acts listed in the definition of Crimes against Humanity when committed against prisoners of war and the civilian population of occupied territory. The only remaining significant groups are Germans and nationals of the satellite countries, such as Hungary or Roumania. It is one of the very purposes of the concept of Crimes against Humanity, not only as set forth in Law No. 10 but also as long recognized by international law, to reach the systematic commission of atrocities and offenses by a State against its own people. The concluding phrase of the definition of Crimes against Humanity, which is in the alternative, makes it quite clear that crimes by Germans against Germans are within the jurisdiction of this Tribunal. It reads "or persecutions on political, racial or religious grounds whether or not in violation of the domestic laws of the country where perpetrated". This reference to "domestic laws" can only mean discriminatory and oppressive legislation directed against a State's own people, as for example, the Nurnberg Laws against German Jews.

The matter is put quite beyond doubt by Article III of Law No. 10 which authorizes each of the occupying powers to arrest persons suspected of having committed crimes defined in Law No. 10, and to bring them to trial "before an appropriate tribunal". Paragraph 1(d) of Article III further provides that:

"Such Tribunal may, in the case of crimes committed by persons of German citizenship or nationality against other persons of German citizenship or nationality, or stateless persons, be a German court, if authorized by the occupying authorities."

This constitutes an explicit recognition that acts committed by Germans against other Germans are punishable as crimes under Law No. 10 according to the definitions contained therein, in the discretion of the occupying power. This has particular reference to Crimes against Humanity, since the application of Crimes against Peace and War Crimes, while possible, is almost entirely theoretical. If the occupying power fails to authorize German courts to try crimes committed by Germans against other Germans (and in the American zone of occupation no such authorization has been given), then these cases are tried only before non-German tribunals, such as these Military Tribunals.

What would be the effect of a holding that crimes by Germans against Germans can under no circumstances be within the jurisdiction of the Tribunal? Is this Tribunal to ignore the proof that tens of thousands of Germans were exterminated pursuant to a secret decree, because a group of criminals in control of a police State thought them "useless eaters" and an unnecessary burden, or that German prisoners were murdered and mistreated by the thousands in concentration camps, in part by medical experimentation? Military Tribunal II in the Milch case held that crimes against nationals of Hungary and Roumania were Crimes against Humanity. There is certainly no reason in saying that there is jurisdiction over crimes by Germans against Hungarians but not against Germans.

The Judgment of the International Military Tribunal shows a clear recognition of its jurisdiction over crimes by Germans against Germans. After reviewing a large number of inhumane acts in connection with War Crimes and Crimes against Humanity, the Tribunal concluded by saying that:

".....from the beginning of the war in 1939 War Crimes were committed on a vast scale, which were also Crimes against Humanity; and insofar as the inhumane acts charged in the Indictment, and committed after the beginning of the war, did not constitute War Crimes, they were all committed in execution of, or in connection with, the aggressive war, and therefore constituted Crimes against Humanity".¹

Since War Crimes are necessarily also Crimes against Humanity, the broader definition of the latter can only refer to crimes not covered by the former, namely, crimes against Germans and nationals of countries other than those occupied by Germany. Moreover, the Prosecution in that case maintained that the inhumane treatment of Jews and political opponents in Germany before the war constituted Crimes against Humanity. The Tribunal said in this connection:

"With regard to Crimes against Humanity there is no doubt whatever that political opponents were murdered in Germany before the war, and that many of them were kept in concentration camps in circumstances of great horror and cruelty. The policy of terror was certainly carried out on a vast scale, and in many cases was organized and systematic. The policy of persecution, repression, and murder of civilians in Germany before the war of 1939, who were likely to be hostile to the Government, was most ruthlessly carried out. The persecution of Jews during the same period is established beyond all doubt."¹

The Tribunal was there speaking exclusively of crimes by Germans against Germans. It held that such acts were not Crimes against Humanity, as defined by the Charter, not because they were crimes against Germans, but because they were not committed in execution of, or in connection with, aggressive war. Indeed, the Tribunal went on to hold that the very same acts committed after the war began

1. *ibid*, p. 254.

were Crimes against Humanity. No distinction was drawn between the murder of German Jews and Polish or Russian Jews. And, moreover, no distinction was drawn between criminal medical experimentation on German and non-German concentration camp inmates or the murder of German and non-German civilians under the euthanasia program. The Tribunal held them all to be War Crimes and/or Crimes against Humanity.

THE THEORY OF THE CASE

What is charged in the Indictment against these defendants? What is the nature of the crimes for which they are on trial? In Count I of the Indictment all of the defendants are charged with having participated in a common plan or conspiracy to commit, and which involved the commission of, criminal medical experiments on involuntary human subjects, which resulted in murders, atrocities, and other inhumane acts. The Tribunal has already heard argument on the question of jurisdiction to entertain the charge of conspiracy, and accordingly I shall limit myself, at a later point, to a few remarks on the law of conspiracy as such, the forms of participation set forth in Section 2 of Article IV of Law No. 10, and the application of both to the facts of this case.

Under Counts II and III (War Crimes and Crimes against Humanity, respectively), certain of the defendants are charged with participation in the murder of persons pursuant to the euthanasia program, the murder and ill-treatment of tubercular Poles, and the murder of 112 Jews for a skeleton collection. Under Paragraphs 6 and 11 of same counts, all of the defendants are charged with participation in criminal medical experimentation on human subjects without their consent, which resulted in murders,

atrocities, and other inhumane acts. It should be emphasized, as the Prosecution has frequently pointed out during the trial, that the basic charge under Paragraphs 6 and 11 of the Indictment is participation in criminal experiments, whatever those experiments may have been. Particulars concerning certain experiments were set forth in the Indictment and certain of the defendants were listed as having been specially active in and responsible for them. This, however, in no way limits the Prosecution in supporting the basic charge by whatever evidence is in the record. It is a completely erroneous conception of the Indictment to view it as charging this or that defendant with having participated in this or that experiment. This amounts to confusing the proof to sustain the charge with the charge itself.

Moreover, the proof with respect to a given defendant should not be viewed by dismembering it and examining its separate parts. The evidence must be viewed as a whole to reach a judgment as to the real guilt of the defendants. It is impossible to assess the cumulative effect of the proof if the documents are separately considered and weighed as so many pieces of lifeless paper. I venture to predict that in the closing statements of defense counsel there will be a tedious torturing of each document, each to be discarded before proceeding to the next, without ever meeting the onus established by the full sweep of the proof. One is sometimes able to break individual sticks from a tree. But if those same sticks are bound together, the result is unbreakable. So it is with proof.

No more can the experiments be viewed as hermetically sealed containers. Various experiments must be considered together to appreciate the full guilt of a defendant even though a judgment of guilt may not be sought with respect to each such experiment. For example, all of the Luftwaffe defendants would have the Tribunal find that in the high altitude experiments the dead Rascher was somehow exclusively

responsible for all fatalities, even though at the time he was on active duty with the Luftwaffe. When the defendants Ruff and Romberg allegedly first learned of his "extra-curricular" murders by having one killed in front of Romberg, they only hung around Dachau working with Rascher for another 6 weeks or so, and after all, according to Romberg, he saw just two more men killed in that time. Now, if one were somehow to think for a moment that there is some faint mitigating circumstance in the exemplary conduct of these two knights of Luftwaffe medical virtue, let us test the truth of their alleged disassociation from Rascher by looking at the freezing experiments which began less than 30 days after Ruff, Romberg, and Rascher published their joint report on the high altitude "ten-party". Did the Luftwaffe Medical Service have anything to do with these experiments on inmates in Dachau after that blackguard Rascher had killed men in their decompression chamber? Yes, the experiments were ordered by the Luftwaffe and executed exclusively by Luftwaffe doctors. Did Rascher have anything to do with them? Yes, indeed. He assisted Holzloehner and Finke in torturing to death many more concentration camp victims. Did Ruff and Romberg know anything about this continued criminal activity? Yes, Romberg was awarded a medal on Rascher's recommendation in September and in October 1942 both Ruff and Romberg were here in Nurnberg listening to the very edifying reports on the freezing experiments by Holzloehner and Rascher. Thus, to appreciate the full guilt of the defendants Ruff and Romberg in connection with the high altitude experiments it is necessary to look to the freezing experiments to see that Rascher, far from being court martialed by the Luftwaffe, after obtaining full knowledge of exactly what had happened, retained his rank and continued his murderous work in cooperation with other Luftwaffe doctors.

It will be seen from this review of the Indictment and from the evidence submitted by the Prosecution that these defendants are, for the most part, on trial for the crime of murder. As in all criminal cases, two simple issues are presented: Were crimes committed and, if so, were these defendants connected with their commission in any of the ways specified by Law No. 10? It is only the fact that these crimes were committed in part as a result of medical experiments on human beings that makes this case somewhat unique. And while considerable evidence of a technical nature has been submitted, one should not lose sight of the true simplicity of this case. The defendant Rose, who was permitted to cross-examine the Prosecution's witness Dr. A. C. Ivy of the Medical School of the University of Illinois, became quite exasperated at his reiteration of the basic principle that human experimental subjects must be volunteers. That, of course, is the cornerstone of this case. There are, indeed, other prerequisites to a permissible medical experiment on human beings. The experiment must be based on the results of animal experimentation and a knowledge of the natural history of the disease under study and designed in such a way that the anticipated results will justify the performance of the experiment. This is to say that the experiment must be such as to yield results for the good of society unprocurable by other methods of study and must not be random and unnecessary in nature. Moreover, the experiment must be conducted by scientifically qualified persons in such manner as to avoid all unnecessary physical and mental suffering and injury. If there is an a priori reason to believe that death or disabling injury might occur,

the experimentors must serve as subjects themselves along with the non-scientific personnel. These are all important principles and they were consistently violated by these defendants and their collaborators. For example, we have yet to find one defendant who subjected himself to the experiments which killed and tortured their victims in concentration camps. But important as these other considerations are, it is the most fundamental tenet of medical ethics and human decency that the subjects volunteer for the experiment after being informed of its nature and hazards. This is the clear dividing line between the criminal and what may be non-criminal. If the experimental subjects cannot be said to have volunteered, then the inquiry need proceed no further. Such is the simplicity of this case.

What then is a volunteer? If one has a fertile imagination, supposititious cases might be put which would require a somewhat refined judgment. No such problem faces this Tribunal. The proof is overwhelming that there was never the slightest pretext of using volunteers. It was for the very reason that volunteers could not be expected to undergo the murderous experiments which are the subject of this trial that these defendants turned to the inexhaustible pool of miserable and oppressed prisoners in the concentration camps. Can anyone seriously believe that Poles, Jews, and Russians or even Germans, voluntarily submitted themselves to the tortures of the decompression chamber and freezing basin in Dachau, the poison gas chamber in Natzweiler, or the sterilization X-ray machines of Auschwitz? Is it to be held that the Polish girls in Ravensbruck gave their unfettered consent to be mutilated and killed for the glory of the Third Reich? Was the miserable Gypsy who assaulted the defendant Beiglboeck

in this very court room a voluntary participant in the sea water experiments? Did the hundreds of victims of the murderous typhus stations in Buchenwald and Natzweiler, by any stretch of the imagination, consent to those experiments? The preponderance of the proof leaves no doubt whatever as to the answer to these questions. The testimony of experimental subjects, eye-witnesses, and the documents of the defendants own making establish beyond a shadow of a doubt, that these experimental subjects were non-volunteers in every sense of the word.

This fact is not seriously denied by the defendants. Most of them who performed the experiments themselves have admitted that they never so much as asked the subjects whether they were volunteering for the experiments. As to the legal and moral necessity for consent, the defendants pay theoretical lip service while at the same time leaving the back door ajar for a hasty retreat. Thus, it is said that the totalitarian "State" assumed the responsibility for the designation of the experimental subjects and under such circumstances the men who planned, ordered, performed, or otherwise participated in, the experiment cannot be held criminally responsible even though non-volunteers were tortured and killed as a result. This was perhaps brought out most clearly as a result of questions put to the defendant Karl Brandt by the Tribunal. When asked his view of an experiment which was assumed to have been of highest military necessity, and of involuntary character with resultant deaths, Brandt replied:

"In this case I am of the opinion that, when considering the circumstances of the situation of the war, this state institution which has laid down the importance in the interest of the state at the same time takes the responsibility away from the physician if such an experiment ends fatally and such a responsibility has to be taken by the state."¹

¹ Transcript, p. 2567

Further questioning elicited the opinion that the only man possibly responsible in this suppositious case was Himmler, who had the power of life and death over concentration camp inmates, even though the experiment may have been ordered, for example, by the Chief of the Medical Service of the Luftwaffe and executed by doctors subordinated to him. Most of the other defendants took a similar position, that they had no responsibility in the selection of the experimental subjects.

This defense is, in the view of the Prosecution, completely spurious. The use of involuntary subjects in a medical experiment is a crime and, if it results in death, it is the crime of murder. Any party to the experiment is guilty of murder and that guilt cannot be escaped by having a third person supply the victims. The person planning, ordering, supporting, or executing the experiment is under a duty, both moral and legal, to see to it that the experiment is properly performed. This duty cannot be delegated. It is surely incumbent on the doctor performing the experiment to satisfy himself that the subjects volunteered after having been informed of the nature and hazards of the experiment. If they are not volunteers, it is his duty to report to his superiors and discontinue the experiment. These defendants have competed with each other in feigning complete ignorance about the consent of the experimental victims. They knew, as the evidence proves, that the miserable inmates did not volunteer to be tortured and killed. But even assuming the impossible, that they did not know, it is their damnation not their exoneration. Knowledge could have been obtained by the simple expedient of asking the subjects. The duty of inquiry could not be clearer and cannot be avoided by such lame excuses as "I understood they were volunteers" or "Himmler assured me they were

volunteers".

In this connection, it should never be lost sight of that these experiments were performed in concentration camps on concentration camp inmates. However little some of these defendants say they knew of the lawless jungles which were concentration camps, where violent death, torture and starvation made up the daily life of the inmates, they at least knew that they were places of terror where all persons opposed to the Nazi government were imprisoned without trial, where Jews and Poles and other so-called "racial inferiors" for no crime whatever, unless their race or religion be a crime, were incarcerated. These simple facts were known during the war to people all over the world. How much greater then was the duty of these defendants to determine very carefully the voluntary character of these experimental subjects who were so conveniently available. True it is that these defendants are not charged with responsibility for the manifold complex of crimes which made up the concentration camp system. But it cannot be held that they could enter the gates of the Inferno and say in effect: "Bring forward the subjects. I see no evil; I hear no evil; I speak no evil." They asked no questions. They didn't inquire of the inmates as to such details as consent, nationality, whether a trial had been held, what crime had been committed, and the like. They did not because they knew that the wretched inmates did not volunteer for their experiments and were not expected to volunteer. They embraced the Nazi doctrines and the Nazi way of life. The things these defendants did were the result of the noxious merger of German militarism and Nazi racial objectives. When, in the face of a critical shortage of typhus vaccines to protect the Wehrmacht in its Eastern invasions, Handloser

and his cohorts decided that animal experimentation was too slow, the inmates of Buchenwald were sacrificed by the hundreds to test new vaccines. When Schroeder wanted to determine the limit of human tolerance of sea water, he trod the path well-worn by the Luftwaffe to Dachau and got forty gypsies. These defendants with their eyes open used the oppressed and persecuted victims of the Nazi regime to wring from their wretched and unwilling bodies a drop of scientific information at a cost of death, torture, mutilation, and permanent disability.. For these palpable crimes justice demands stern retribution.

The Common Design or Conspiracy

It must not be overlooked that the experiments proved in this case were not haphazard and unrelated crimes. On the contrary, they constituted a well integrated criminal program, in which the defendants planned and collaborated among themselves and with other persons. One thing should be made clear at the outset. Each experiment constituted a criminal conspiracy in and of itself. None of the experiments were formulated and executed by one man. Each required the efforts of a number of men and the cooperation of several agencies. Thus, in the typhus experiments in Buchenwald, the medical services of the Army, Luftwaffe, and SS all played an important role. The measure of the guilt of such defendants as Handloser, Schroeder, Rose, Genzken, Mrugowsky, Poppendiek, and Hoven is the total of the crimes committed there. These experiments were, indeed, one continuous crime in which all played a substantial part.

For example, the defendant Rose personally initiated experiments in Buchenwald in August 1942 and March 1944 which resulted in the death of ten persons. But he is equally guilty of the several hundred other murders since he joined in and furthered the joint venture.

Thus, it is incontrovertible that each experiment constituted per se a small conspiracy and every participant in it must be found responsible for the sum total of crimes committed in its execution. But it is also clear that these criminal conspiracies overlapped and blended together to form a broad common design. These crimes were systematic and were committed pursuant to a policy, formulated by the leaders of the German medical services, approving of, and ordering, the execution of highly dangerous experiments on human subjects without their consent. The inter-relation and common basis of these crimes is brought into sharp focus by a simple chronological review. The program had its early beginning in May 1941, when Luftwaffe Captain Rascher, aided and abetted by the defendant Weltz and an assistant named Kottenhof, made overtures to Himmler for prisoners to be used in high altitude experiments, which, he stated, were so dangerous that "nobody was volunteering". In December 1941, when typhus vaccines were needed for the Wehrmacht's invasion of the East, the defendant Handloser, as Army Medical Inspector, met with Conti, Secretary of State for Health, and Krugowsky, subordinate of the defendant Genzken and Chief of the Hygiene Institute of the Waffen SS, and made the basic decision to test typhus vaccines by experiments on human beings. As a result, by the turn of the year, the criminal typhus experiments, which were to cost the lives of several hundred human beings, were underway in Buchenwald. Dr. Schilling was provided with "human material" for malaria experiments at Dachau in February 1942, through the good offices of Conti, and in

the same month at the same place, the defendants Ruff and Romberg joined partners in the dance of death with Rascher and Wetz. In May 1942 at the meeting of the Consulting Physicians of the Wehrmacht, the defendant Rostock lectured on the chemio-therapeutical treatment of wound infections, especially with sulfanilamide. Forty-five days later, the defendant Gebhardt, spurred on by his loss of "Hangman" Heydrich, began his sulfanilamide experiments in Ravensbruck with the assistance of the defendants Fischer and Oberhauser and the gangrenous cultures furnished by Genzken and Krugowsky. Under the direction of Grawitz, companion experiments to test the bio-chemical treatment of sepsis, induced by injections of pus, were run simultaneously in Dachau. In August 1942, when the blood of inmates autopsied in the decompression chamber had scarcely dried, the Medical Service of the Luftwaffe ordered Holzloehner, Finke, and Rascher to perform freezing experiments to establish the most effective means of treating prolonged exposure to cold. In November 1942, August Hirt, under the aegis of the recently created Institute of Military Scientific Research of the Ahnenerbe directed by the depraved Sievers, began his murderous gas experiments aided and abetted by Wimmer, medical officer of the Luftwaffe. In connection with these same experiments, the defendant Sievers, who was at the same time seeing to it that things ran smoothly with the malaria and freezing crimes, wrote to Rudolf Brandt of his outrage at the suggestion that the wretched victims be paid for. Like the helpful man that he was, Brandt immediately put things straight with Obergruppenfuehrer Pohl, administrative chief of the concentration camps.

These crimes were not committed as a simple academic pursuit as were some of the more "garden variety" concentration camp atrocities. In October 1942 a great Cold Congress in

Nurnberg was attended by the defendants Becker-Freyseng, Ruff, Romberg, Rose, Schaefer, and Weltz, together with nearly 100 representatives of all the medical services in Germany. The meeting was arranged by Anthony and the defendant Becker-Freyseng on behalf of the Luftwaffe. Schreiber, one of the principal subordinates of Handloser, was there. Holzloehner and Rascher gave a report on their freezing experiments and it was made clear to all who cared to listen that concentration camp inmates were used as subjects and that deaths had occurred. Schreiber apparently gave his chief Handloser such a glowing report that Holzloehner was invited to a repeat performance at the Second Meeting East of the Consulting Physicians of the Wehrmacht in December 1942. Handloser personally heard the lecture this time. It was at the same meeting that Ding was ordered by his superior Arugowsky, at the instigation of Handloser's henchmen Schreiber and Killian, to give several of the inmates in Buchenwald an intravenous dose of phenol and report back on the clinical details of the ensuing deaths. These gentlemen were troubled by the observation that some of their soldiers were dying after receiving gas oedema serum and they wanted to ascertain whether it was caused by the phenol content.

At the Third Meeting of Consulting Physicians in May 1943, Gebhardt told of his experiments to the section on surgery. Rosstock arranged the program and presided, while Karl Brandt and Handloser were in the seats of honor. What they heard came as no surprise. Gebhardt and Fischer gave a full report on the sulfanilamide experiments down to the last death. Gebhardt was so anxious to spread his guilt somewhat thinner that he emphasized to the Tribunal the complete nature of their report. This proved a little embarrassing to his predecessors in the witness box who were quite sure that nothing had been said about artificial infection or deaths. Karl Brandt had no more than left this meeting when he made arrangements with Grawitz to get inmates at the Sachsenhausen Concentration Camp for the epidemic jaundice experiments by Dohmen, a medical officer of the Army under Handloser. This disease was causing casualties up to 60% in the Wehrmacht units in the East.

At the very same meeting, Ding lectured to the hygiene section on his murderous typhus experiments at Buchenwald. Schreiber presided and the defendants Rose and Krugowsky were in attendance as well as the Luftwaffe typhus expert Haagen, who, to say the least of it, was exceedingly parsimonious with the truth when he testified before this Tribunal. There is no question that Rose took strong exception to this report, although his prior and subsequent conduct leave little doubt that it was on scientific rather than moral grounds. In any event, what was good enough for Ding was good enough for Haagen. That very same month he began his own typhus vaccine tests in the Schirmeck Concentration Camp, aided and abetted by Rose and the Medical Service of the Luftwaffe. In a matter of thirty days, two inmates had already died as a result. In the fall of 1943, Haagen shifted his activities to the larger camp of Natzweiler where he continued his criminal work until the late summer of 1944, under the auspices of the defendant Schroeder.

In the fall of 1943, Karl Brandt, as General Commissioner of the Medical and Health Services, undertook personal sponsorship of the phosgene gas experiments of Bickenbach, who had previously worked with Hirt on inmates at Natzweiler. The Wehrmacht was also interested in these experiments. Brandt received broad powers in the field of chemical warfare in a Fuehrer decree of 1 March 1944. Shortly thereafter he conferred with the defendant Sievers and Hirt on the experiments in Natzweiler. He personally supplied Bickenbach with laboratory facilities, who, by September 1944, had murdered four Russian prisoners of war.

In June 1944, the defendant Schroeder personally initiated plans for the sea water experiments, with the assistance of his subordinates Becker-Freyseng and Schaefer. In a letter to Himmler, through Grawitz, asking for "40 healthy test subjects" for experiments he knew would probably end in deaths, he said

that: "Earlier already you made it possible for the Luftwaffe to settle urgent medical matters through experiments on human beings".^{1/} He concluded by saying: "As it is known from previous experiments, that necessary laboratories exist in the concentration camp Dachau, this camp would be very suitable". The defendant Beiglboeck joined in the conspiracy and executed the experiments.

In June 1944, a conference was called at Breslau by the defendant Handloser for the purpose of coordinating jaundice research. Jaundice experts from all branches of the Wehrmacht were present, including Hagen, and Handloser's subordinate Schreiber presided. Experiments on human beings were discussed and a few weeks later Hagen and three other officers of the Luftwaffe began laying plans for experiments on human beings in "Strassbourg or its vicinity", an obvious reference to Natzweiler. That criminal experiments on concentration camp inmates were discussed at the Breslau meeting is clear from the fact that Schreiber personally requested Drugowsky somewhat later to make available inmates in Buchenwald for jaundice experiments by Dr. Dresel.

The foregoing chronological analysis of some of the experiments, while not complete, is sufficient to show that there was a systematic and well integrated program involving medical experimentation on concentration camp inmates without their consent. The demands upon the SS for human guinea pigs had become so extensive that by May, 1944 a central clearing committee had been set up by Himmler. The defendant Gebhardt passed on the medical necessity of the proposed experiment, while Gluecks and Nebe acted as the Valkyries in selecting the sacrificial victims. As early as August 1942, the Institute of

^{1/} NO-185, Pres. Ex. 134, R.483.

Military Scientific Research of the Ahnenerbe under Sievers was created to finance and to furnish equipment, prisoners, and administrative assistance for experiments in which Himmler was especially interested. This criminal program was motivated from two principal sources. Himmler, as head of the SS, provided uncounted victims for the experiments and thereby gained new prestige and power for his criminal organization. The leaders of the German military and civilian medical services, as the other driving force, ruthlessly seized the opportunity with which they were presented and submitted their scientific problems for solution in the concentration camps. The scientific impetus came from Karl Brandt, Handloser, Schreiber, Hippke, Schroeder, Conti, and their subordinates, among others. Rudolf Brandt and Sievers gave effect to Himmler's approval to furnish the victims and the administrative machinery was handled by them. The SS medical leaders - Grawitz, Gonzken, Gebhardt, Mrugowsky, and Poppendick - gave directions to their underlings such as Ding, Hoven, and Fischer, and assisted in the execution of the crimes. Brandt, Blome, and Schreiber extended financial support through the Reich Research Council, which approved an allocation of government funds to enlarge the SS medical service on the ground it had human "experimental material" available. Rostock, as Chief of the Office for Science and Research, classified as "urgent" the criminal research of Hirt, Haagen, and Bickenbach. The Wehrmacht provided supervision and technical assistance for those experiments in which it was most interested. A low pressure chamber was furnished for the high altitude experiments, the services of Weltz, Ruff, Romberg, Rascher, Holzlochner, and Finko for the high altitude and freezing atrocities and those of Becker-Freyseng, Schaefer, and Beiglboeck for sea water. Rose was in and out of the Buchenwald typhus station for the Luftwaffe and checked the work of Haagen at Schirmeck and Natzweiler. Handloser kept an eye on Ding's

experiments through Schreiber, Eyer, and Schmidt and furnished him with vaccines and typhus infected lice. He saw to it that the useful results of the crimes were reported to his Consulting Physicians and passed on to the Wehrmacht.

This was the unholy trinity; this was the common design. It was like a gigantic wagon wheel, the spokes of which were the experiments leading into the common hub of the SS which furnished the victims, and all bound together by the policies and orders of the leaders of the German medical services which formed the outer rim. While the defendants deny that there was a common design or that they participated in it, all seek at the same time the contradictory "protection" of the State approval of the experiments. The defendant Rose, broken by proof from his own hand that he participated in the typhus crimes of Buchenwald, gave something of a valedictory when he said:

"This institute had been set up in Germany and was approved by the State and covered by the State. At that moment I was in a position which perhaps corresponds to a lawyer who is, perhaps, a basic opponent of execution, or death sentence. On occasion when he is dealing with leading members of the government, or with lawyers during public Congresses or meetings, he will do everything in his power to maintain his opinion on the subject and have it put into effect. If, however, he does not succeed, he stays in his profession, and in his environment in spite of this. Under circumstances he may perhaps even be forced to pronounce such death sentence himself, although he is basically an opponent of that set up." 1/

Gabhardt testified that Hitler approved the policy of experimentation on concentration camp inmates. He admitted that these experiments would not have been performed without approval from the top; even Himmler himself sought cover from Hitler. The Prosecution claims no more. This policy of systematic experimentation on involuntary subjects was formulated and executed by these defendants and their accomplices.

1/ Transcript, p. 6467.

This, then, was the medical service of the Third Reich at work. There can be no doubt that these were not a heterogeneous and unrelated group of crimes. They mesh together to form a clear conspiracy. Each experiment in turn ratified its predecessors and gave impetus to its successors. Whatever may be the judgment of the Tribunal on the question of jurisdiction, there was a conspiracy in fact. Since a conspiracy was charged in Count I of the Indictment, it is important to know what a conspiracy comprehends and punishes. Justice Jackson stated in his closing address to the International Military Tribunal that:

"In conspiracy we do not punish one man for another man's crime. We seek to punish each for his own crime of joining a common plan in which others also participated. The measure of the criminality of the plan and therefore of the guilt of each participant is, of course, the sum total of crimes committed by all in executing the plan. But the gist of the offense is participation in the formulation or execution of the plan. These are rules which every society has found necessary in order to reach men who never got blood on their own hands but who lay plans that result in the shedding of blood. All over Germany today, in every zone of occupation, little men who carried out these criminal policies under orders are being convicted and punished. It would present a vast and unforgivable caricature of justice if the men who planned these policies and directed these little men should escape all penalty." 1/

The essence of the crime of conspiracy is two or more persons combining and confederating with the intent and purpose of committing an offense by doing an unlawful act or doing a lawful act in an unlawful manner. It can be established by direct testimony but it may also be inferred from things actually done. It is enough if the minds of the parties meet and unite in an understanding way with the design to accomplish a common purpose which may be established by substantial evidence or by deduction from facts, from which a natural inference arises that the overt acts were in furtherance of a common design, intent, and purpose. The common design is the essence of the crime and this may be made to appear when the parties

1/ I.M.T. transcript, p. 14370

continuously pursue the same object, whether acting separately or together by common or different means, but ever leading to the same unlawful result. When one or more of the conspirators makes an open declaration and the others thereafter adhere by words or acts, their responsibility is complete and their guilt thereby established for they have become agents ad hoc in the crimes. The conspirators may not know each other or such others' part in the plan, nor, indeed, all the details of the plan itself. He may know only his own part. That is enough if there is an intentional contribution to the whole. It is enough if one had knowledge of the general purpose and joins himself. Each is responsible for all acts done in furtherance of the objects of the conspiracy and during its life. Once a person joins a conspiracy, he ratifies all that has been done before by each of the others.¹

What has been said with respect to the common design or conspiracy is, of course, quite pertinent even though the Tribunal has decided that it has no jurisdiction over conspiracies to commit War Crimes and Crimes against Humanity. Paragraph 2 of Article II of Law No. 10 reads, in part, as follows:

"Any person without regard to nationality or the capacity in which he acted, is deemed to have committed a crime as defined in paragraph 1 of this Article, if he was (a) a principal or (b) was an accessory to the commission of any such crime or ordered or abetted the same or (c) took a consenting part therein or (d) was connected with plans and enterprises involving its commission or (e) was a member of any organization or group connected with the commission of any such crime....."

This paragraph, although it does not employ the word "conspiracy" or the phrase "common plan", recognizes the criminal

1 U.S. v. Borden, 138 F. (2d), C.C.A.7, certiorari denied.

liability of those who were substantially connected with the commission of a crime, even though the final criminal act is committed by someone else. Those who are found to have been connected with crimes in the way specified by the quoted paragraph must be found guilty of the substantive crime itself, which in this case is predominantly the crime of murder. Quite clearly the status of criminal responsibility of a person who "took a consenting part" in or "was connected with plans or enterprises involving" or "was a member of any organization or group connected with" the commission of a crime more than comprehends the criminal liabilities which are held to attach to those who enter into a criminal conspiracy. Thus, whether the criminal experimentation program be called a "common design", "conspiracy", or simply "plans and enterprises", these defendants who jointly participated in its execution must be found guilty of the sum total of crimes committed.

THE RESPONSIBLE LEADERS OF THE MEDICAL SERVICES

In view of the clear and overwhelming proof, it can only be concluded that the practice of experimentation on concentration camp inmates without their consent was an organized and systematic program. It is therefore appropriate to consider whether we have in this dock the leaders of the German medical services without whom these crimes would not have been possible. It would be an unforgivable miscarriage of justice to punish the doctors who worked on the victims in the concentration camps while their superiors, the leaders, organizers, and instigators, go free. It has been established beyond controversy that these things could not have happened without cover from the top. Who, then, were these men on the top? Their survivors, with one exception, are all in this dock.

In the number one seat we have the defendant Karl Brandt. He held supreme authority over all the medical services in Germany, both military and civilian. He joined the Nazi Party in January 1932 and the SS in 1934, in which he rose to the rank of Gruppenfuehrer (Major General). In the latter year, at the age of 30, he became the attending physician to Adolf Hitler and retained this position until 1945. His close personal relationship to the Fuehrer explains his rapid rise to power. On the day Poland was invaded in 1939, Hitler ordered Brandt and Philipp Bouhler, the Chief of the Chancellery of the Fuehrer, to carry out the so-called euthanasia program.

Aside from his personal influence and intimate connection with Hitler, Brandt's greatest power in the medical services came from his position as General Commissioner and later Reich Commissioner of the Health and Medical Services. As a result of the disastrous winter campaign in the East in 1941, Hitler established for the first time a medical and health official under his direct control by decree of 28 July 1942. This decree made Brandt the supreme authority over all medical services in Germany. It stated in part as follows:

"3. I empower Prof. Dr. Karl Brandt, subordinate only to me personally and receiving his instructions directly from me, to carry out special tasks and negotiations, to readjust the requirements for doctors, hospitals, medical supplies, etc., between the military and the civilian sectors of the Health and Medical Services.

"My plenipotentiary for Health and Medical Services is to be kept informed about the fundamental events in the Medical Service of the Wehrmacht and in the Civilian Health Service. He is authorized to intervene in a responsible manner." ¹

1 NO-080, Pros. Ex. 5, R. 93.

By the same decree chiefs were also commissioned for the medical services of the Wehrmacht and the civilian health sector. The defendant Handloser became Chief of the Medical Services of the Wehrmacht, while Dr. Leonardo Conti, Secretary of State for Health and the Reich Health Leader, was made Chief of the Civilian Health Services. Brandt was the superior of both Handloser and Conti, and through them had extensive powers over the Army, Navy, Luftwaffe, Waffen SS, and civilian medical services. Brandt stood at the apex of power. He was subordinated to no one save the Fuehrer. He was the man to act for the Fuehrer in medical matters. The decree authorized Brandt "to intervene in a responsible manner" and directed that he be kept informed of "fundamental events". Certainly nothing could be more fundamental than a policy of performing medical experiments involving the torture and death of involuntary human subjects.

On 5 September 1943 Hitler issued a second decree empowering Brandt "with centrally coordinating and directing the problems and activities of the entire medical and health services ..."¹ The order expressly stated that Brandt's authority covered the field of medical science and research. Shortly following the issuance of this decree, the defendant Rostock was appointed by Brandt as Chief of the Office for Science and Research, with plenary powers in that field.

Finally, on 25 August 1944, the Fuehrer elevated Brandt to Reich Commissioner for the Health and Medical Services and stated that in this capacity "his office ranks as highest

1 NO-081, Pros. Ex. 6, R. 94.

Reich authority". Brandt's position was thus equivalent to that of a Reich Minister. He was authorized "to issue instructions to the offices and organizations of the State, Party, and Wehrmacht, which are concerned with the problems of the medical and health services"¹. It is clear that this decree was issued to resolve a struggle for power between Brandt and Conti. Certainly the decree does no more than give Brandt a more august title and restate his powers, powers which he had already received as early as July 1942. Brandt testified that it merely "strengthened" his position. A Service Regulation issued by Keitel for Handloser, as Chief of the Medical Services of the Wehrmacht, at a time when Brandt was still General Commissioner, provided that Handloser was subject to the "general rules of the Fuehrer's Commissioner General for the Medical and Health Services" and that Brandt had to be informed of the "basic events" in the field of the Medical Services of the Wehrmacht. In a pre-trial affidavit the defendant Handloser stated that after he became Chief of the Medical Services of the Wehrmacht on 28 July 1942 "Brandt was my immediate superior in medical affairs"². Schroeder stated that "Karl Brandt, Handloser, and Rostock were informed of the medical research work conducted by the Luftwaffe"³. In addition to his position as General and Reich Commissioner of the Health and Medical Services, Brandt was also a member of the Presidential Council of the Reich Research Council, an organization which gave financial support for criminal experiments.

1 NO-082, Pros. Ex. 7, R. 95

2 NO-443, Pros. Ex. 10, R. 99.

3 NO-449, Pros. Ex. 130, R. 474.

In the number two seat is the defendant Handloser who held supreme power over the Medical Services of all branches of the Wehrmacht. Early in 1941 he was appointed Army Medical Inspector and Army Physician. He held these positions until September 1944, and as such had complete command over the entire Army Medical Services, which was by far the largest of the medical branches of the Wehrmacht. In his capacity as Army Medical Inspector, Handloser had subordinated to him the Consulting Physicians of the Army, the Military Medical Academy, the Typhus and Virus Institutes of the OKH at Cracow and Lemberg, and the Medical School for Mountain Troops at St. Johann. He attained the rank of Generaloberstabsarzt (Lieutenant General), the highest military medical rank.

On 28 July 1942, Handloser was elevated to the newly created position of Chief of the Medical Services of the Wehrmacht. This was the same decree which appointed Brandt General Commissioner, to whom Handloser, on the military side, and Conti, on the civilian side, were subordinated. Handloser was charged with the coordination of the Medical Services of the Wehrmacht and all organizations and units subordinated or attached to the Wehrmacht, including the Medical Services of the Waffen SS. Prior to this decree there were four separate medical branches of the Wehrmacht, the Army, Luftwaffe, Navy, and Waffen SS, each operating independently of the other. Pursuant to this decree, Handloser was appointed to coordinate and unify their operations and was directly responsible to Keitel as Chief of the High Command of the Wehrmacht (OKW). He had authority over the Chiefs of the Army, Navy, Luftwaffe, and Waffen SS Medical Services, and all organizations and services employed within the framework of

the Wehrmacht, and over "all scientific medical institutes, academies and other medical institutions of the Services of the Wehrmacht and of the Waffen SS".¹ He was the adviser of the Chief of the High Command and of the Wehrmacht in all questions concerning the Medical Services of the Wehrmacht and of its health guidance. In the field of medical science, his duties were to carry out uniform measures in the field of health guidance, research and combatting of epidemics, and all medical matters which required a uniform ruling among the Wehrmacht, and further, in the evaluation of medical experiences.

One of the principal means used by the defendant Handloser in coordinating scientific research was the joint meeting of Consulting Physicians of the four branches of the Wehrmacht. At the Second Meeting East of Consulting Physicians in December 1942 at the Military Medical Academy, Handloser himself pointed out quite clearly the task of the Chief of the Medical Services of the Wehrmacht in unifying medical scientific research. In addressing the full meeting he said:

"The demands and extent of this total war, as well as the relationship between needs and availability of personnel and material, require measures, also in military and medical fields, which will serve the unification and unified leadership. It is not a question of 'marching separately and battling together', but marching and battling must be done in unison from the beginning in all fields.

"As a result, as concerns the military sector, the Wehrmacht Medical Service and with it the Chief of the Medical Services of the Wehrmacht came into being. Not only in matters of personnel and material -- even as far as this is possible in view of special fields and special tasks which must be considered -- but also with a view to medical scientific education and research, our path in the Wehrmacht Medical Service must and will be a unified one. Accordingly, the group of participants in this Second Work Conference East, which I have now opened, is differently composed from the First Work Conference in May

of this year. Then it was a conference of the army; today the three branches of the Wehrmacht, the Waffen SS and Police, the Labor Service and the Organization Todt are participating and unified.

"You will surely permit that I greet you with a general elcome and with the sincere wish that our common work may be blessed with the hoped for joint success.

"I would, however, like to extend a special greeting to the Reich Chief of Health Services, Under Secretary Conti, who holds the central leadership of medical services in the civilian sector. I see in his presence not only an interest in our work themes, but the expression of his connection with the Wehrmacht Medical Service and his understanding of the special importance of the Wehrmacht in the field as well as at home. I need not emphasize that we are as one in the recognition of the necessity to assure and ease the mind of the soldier, that he need not worry about the physical well being of the homeland as far as this is within the realm of possibility in wartime." 1

Again, at the Fourth Meeting of Consulting Physicians in May 1944, the defendant Karl Brandt stressed the importance of Handloser's position, saying:

"Generaloberstabsarzt Handloser, you a soldier and a physician at the same time, are responsible for the use and the performance of our medical officers.

"I believe, and this probably is the sole expectation of all concerned, that this meeting which today starts in Hohenlychen will be held for the benefit of our soldiers. The achievements to date of your physicians, Herr Generaloberstabsarzt, confirm this unequivocally, and their readiness to do their share makes all of us proud and - I may also say - confident.

"It is good simply to call these things by their names and to look at them as they are. This meeting is the visible expression of it - it is, it shall be and it must be so in every respect; the consulting physicians are gathered around their Medical Chief. When I look at these ranks, you Generaloberstabsarzt Handloser, are to be envied; medical experts, with the best and most highly trained special knowledge, are at your disposal for care of the soldiers. In reciprocal action between

yourself and your medical officers, the problem of our medical knowledge and capacity are kept alive." ¹

This was no accolade paid to a man without power and influence. If Handloser is not responsible for the crimes committed by the Medical Services of the Wehrmacht, and especially of the Army and Luftwaffe, then no one is responsible.

In the number three seat we have the defendant Rostock who, as Brandt's special deputy, was charged with the task of "centrally coordinating and directing the problems and activities of the entire Medical and Health Services" in the field of science and research. Even prior to his appointment to that position in the Fall of 1943, Rostock was one of the responsible leaders of the German medical profession. In 1942 he was appointed Dean of the Medical Faculty of the University of Berlin. In the same year he became Consulting Surgeon to Handloser as the Army Medical Inspector. He attained the rank of Brigadier General (Generalarzt). As Chief of the Office for Science and Research under Brandt, it was Rostock's task to coordinate scientific research in Germany. He received reports as to the issuance of research assignments by the various agencies in Germany, and determined which of such assignments should be considered "urgent". He also served as Brandt's alternate on the Reich Research Council.

In the number four seat we have the defendant Schroeder, who from 1 January 1944 until the end was the Chief of the Medical Services of the Luftwaffe. From 1935 until February 1940 Schroeder was Chief of Staff to his predecessor, Erick Hippke as Luftwaffe Medical Inspector. From February 1940

¹ NO-924, Pros. Ex. 437, R. 2067.

until January 1944 he served as Air Fleet Physician of Air Fleet II, when he replaced Hippke as Chief of the Medical Services of the Luftwaffe. Simultaneously he was promoted to the rank of Generaloberstabsarzt. As Chief of the Medical Services of the Luftwaffe, all medical officers of the German Air Force were subordinated to him. His position and responsibility are clear and unequivocal.

In seat number five is the defendant Genzken, who, as Chief of the Medical Services of the Waffen SS, was one of the highest ranking medical officers in the SS. He joined the Nazi Party in 1926 and in 1936 he went on active duty with the SS in the Medical Office of the SS Special Service Troops (SS-Verfuegungstruppe), which subsequently became the Waffen SS. In the Spring of 1937 the Medical Office (Sanitaetsamt) of the SS was enlarged and split into two departments. Genzken was made Director of the Department charged with the supply of medical equipment to and the supervision of medical personnel in the concentration camps. In this capacity he was the medical adviser to the notorious Eicke, predecessor of Pohl as the commander of all concentration camps. Sachsenhausen, Dachau, Buchenwald, Mauthausen, Flossenbug, and Neuengamme, among others, were under the medical supervision of Genzken. Few men could have been better advised as to the systematic oppression and persecution of the hapless prisoners of these institutions.

In May 1940, Genzken became Chief of the Medical Office of the Waffen SS in the SS Operational Headquarters, with the rank of Oberfuehrer (Senior Colonel). The SS Operational Headquarters was subordinated to Gruppenfuehrer Hans Juettner

and was one of the twelve main offices of the Supreme Command of the SS. While Juettner was Genzken's military superior, his technical or medical superior was Reichsarzt-SS Grawitz for whom he served as deputy on many occasions. In 1942 his position became known as Chief of the Medical Services of the Waffen SS, Division D of the SS Operational Headquarters. He attained the rank of Gruppenfuehrer in the SS and Generalleutnant of the Waffen SS (Lieutenant General). Among the offices subordinated to Genzken was that of the Chemical and Pharmaceutical Service under Bluemenreuter, and Hygiene under the defendant Mrugowsky. Mrugowsky was attached to Genzken's office as a hygienist in 1940 and was at the same time Chief of the Hygiene Institute of the Waffen SS which, in turn, was subordinated to Genzken. On 1 September 1943, the Medical Services of the SS was reorganized and, among other things, Bluemenreuter, Mrugowsky, and the Hygiene Institute of the Waffen SS were transferred to the Office of the Reichsarzt SS, Grawitz. Thereafter the direct subordination was to Grawitz rather than to Genzken.

And then there is the defendant Blome, Gruppenfuehrer (Major General) in the SA, Deputy Reich Health Leader, Deputy Leader of the Reich Chamber of Physicians and the National Socialist Physicians Association, Representative for the Department of Medical Study, Plenipotentiary in the Reich Research Council, and Chief of Research on Bacteriological Warfare. As the closest associate of Conti, he cannot be omitted from the list of the powerful. Conti was the highest authority in the field of civilian health administration. The decree of 28 July 1942, signed by Hitler, concerning the reorganization of the medical services, defines the position of Conti as follows:

"In the field of civilian health administration the Secretary of State in the Ministry of Interior, and the Chief of the Health Administration of the Reich (Reichsgesundheitsfuehrer), Dr. Conti, is responsible for coordinated measures. For this purpose he has at his disposal the competent departments of the highest Reich authorities and their subordinate offices."¹

There was not a single medical question which did not reach the Reich Health Department of the Nazi Party and the Reich Chamber of Physicians, subordinated to which were all physicians in Germany, with the exception of those on active service with the armed forces and in the SS. As a member of the Reich Research Council, Blome was personally connected with plans and enterprises involving criminal medical experimentation.

These were the responsible leaders of the Medical Services of Germany. Who, then, is missing from this illustrious gathering? During the course of the trial, we have frequently heard mentioned the names of Conti and Grawitz. Indeed, the defendants would have us believe that in these two men, together with Hitler and Himmler, resided the exclusive responsibility for the manifold crimes with which we are here concerned. I hardly need call attention to the fact that all are dead. All of them took their own lives rather than face the bar of justice. No one can deny that those men were, indeed, guilty. But this in no way serves to exonerate these defendants, who all played important roles in the mad scheme. It is a curious thing that not one of the defendants has pointed an accusing finger at a living man. If they are to be believed, all the guilty parties to these crimes are dead. According to them, justice must seek retribution only from the cadavers. The Luftwaffe defendants have been strangely silent as to Hooke, who, but for a belated capture, would have a prominent seat in the dock. Those defendants who worked with the dead criminals - such as Gebhardt, Krugowsky, and Ponnendick with

¹ NC-030, Pros. Ex. 5, R. 93

Grawitz, and Blome with Conti - ask the Tribunal to say that their association was honorable and pure, that their work was in another field, that their masters' crimes come as a great surprise and were never known to them. The evidence proves, however, that they not only knew of and supported these crimes, but also took a personal part in them.

In connection with the responsible positions of these defendants, and most particularly of Karl Brandt and his assistant Rostock, Wandloser, Schroeder, Genzken, and Blome, I wish to call the Tribunal's attention to the decision of the Supreme Court of the United States in the case of In re Yamashita.¹ On 25 September 1945, Yamashita, the Commanding General of the Fourteenth Army Group of the Imperial Japanese Army in the Philippine Islands was charged with violation of the laws of war. He thereafter pleaded not guilty, was tried, found guilty as charged and sentenced to death by hanging. A petition for a writ of habeas corpus was filed with the Supreme Court purporting to show that Yamashita's detention was unlawful for the reason, among others, that the charge preferred against him failed to charge him with a violation of the laws of war.

The charge stated that Yamashita, between October 9, 1944 and September 2, 1945, in the Philippine Islands, "while commander of armed forces of Japan at war with the United States of America and its allies, unlawfully disregarded and failed to discharge his duty as commander to control the operations of the members of his command, permitting them to commit brutal atrocities and other high crimes against people of the United States and of its Allies and dependencies, particularly the Philippines; and he thereby violated

¹ 66 Sup. Ct. 340 (1946).

the laws of war". The military commission which tried Yamashita found that atrocities and other high crimes had been committed by members of the Japanese armed forces under his command, that they were not sporadic in nature but in many cases were methodically supervised by Japanese officers, and that during the period in question Yamashita failed to provide effective control of his troops as was required by the circumstances. The Supreme Court stated the question for their decision in the following language:

"It is not denied that such acts directed against the civilian population of an occupied country and against prisoners of war are recognized in international law as violations of the law of war But it is urged that the charge does not allege that petitioner has either committed or directed the commission of such acts, and consequently that no violation is charged against him. But this overlooks the fact that the gist of the charge is an unlawful breach of duty by the petitioner as an army commander to control the operations of the members of his command by 'permitting them to commit' the extensive and widespread atrocities specified. The question then is whether the law of war imposes on an army commander a duty to take such appropriate measures as are within his power to control the troops under his command for the prevention of the specified acts which are violations of the law of war and which are likely to attend the occupation of hostile territory by an uncontrolled soldiery, and whether he may be charged with personal responsibility for his failure to take such measures when violations result".

The Court held that the charge was sufficient and that the law of war "plainly imposed on petitioner, who at the time specified was military governor of the Philippines, as well as commander of the Japanese forces, an affirmative duty to take such measures as were within his power and appropriate in the circumstances to protect prisoners of war and the civilian population. This duty of a commanding officer has heretofore been recognized, and its breach penalized by our own military tribunals".

This decision is squarely in point as to the criminal responsibility of those defendants in this dock who had the power and authority to control the agents through whom these crimes were committed. It is not incumbent upon the prosecution to show that this or that defendant was familiar with all of the details of all of these experiments. Indeed, in the Yamashita case, there was no charge or proof that he had knowledge of the crimes. In the case before the International Military Tribunal, proof was submitted that the Reichsbank, of which the defendant Funk was president, had received from the SS the personal belongings of victims who had been exterminated in concentration camps. In that connection the Tribunal said in its Judgment:

"Funk has protested that he did not know that the Reichsbank was receiving articles of this kind. The Tribunal is of the opinion that he either knew what was being received or was deliberately closing his eyes to what was being done".¹

But we need not discuss the requirement of knowledge on the facts of this case. It has been repeatedly proved that those responsible leaders of the German medical services in this dock not only knew of the systematic and criminal use of concentration camp inmates for murderous medical experiments, but also actively participated in such crimes. Can it be held that Karl Brandt had no knowledge of these crimes when he personally initiated the jaundice experiments by Dohren in the Sachsenhausen Concentration Camp and the phosgene experiments of Bickenbach? Can it be found that he knew nothing of the criminal euthanasia program when he was charged by Hitler with its execution? Can it be said that Wandloser had no knowledge when he participated in the conference of 29 December 1941 where it was decided to perform the Buchenwald typhus crimes, when reports were given on criminal experiments at meetings called and presided over by him? Was Rostock an island of ignorance when he arranged the program for and

¹ Trial of the Major War Criminals, Vol. 1, p. 306.

presided over the meetings at which Gebhardt and Fischer lectured on their sulfanilamide experiments, when he classified as "urgent" the criminal research of Hirt, Haagen, and Bickenbach? Did Schroeder lack knowledge when he personally requested Himmler to supply him with inmates for the sea water experiments? Can it be found that Gonzken had no knowledge of these crimes when the miserable Dr. Ding was subordinated to and received orders from him in connection with the typhus experiments in Buchenwald, when his office supplied Rascher with equipment for the freezing experiments? Was Blome insufficiently informed in the face of proof that he collaborated with Rascher in the blood coagulation experiments, issued a research assignment to him on freezing experiments and to Hirt on the gas experiments, as well as performed bacteriological warfare and poison experiments himself?

No, it was not lack of information as to the criminal program which explains the culpable failure of these men to destroy this Frankenstein's monster. Nor was it lack of power. Can anyone doubt that Karl Brandt could have issued instructions to Wandloser and Conti that doctors subordinated to them were not to experiment on concentration camp inmates. It is no excuse to say that Hitler and Himmler approved the policy and that his efforts may have failed. Certainly they approved it. But the fact is that Brandt also approved of and personally participated in the program. He was the "highest Reich authority" in the medical services, not Himmler. The medical services were Brandt's primary function, while Himmler had a few other tasks to keep him busy, such as running the SS, the Ministry of Interior, the German Police, and the Home Army, to mention a few.

Nothing could have been easier for Handloser than to issue a general directive that officers of the Medical Services of the Wehrmacht were to keep out of concentration camps. If he could not have done so, then we must conclude that no one could have. Handloser had no peer in the military medical services. And what Handloser could have done for all the branches of the Wehrmacht, Schroeder, Genzken, and Blome could have done with respect to the Luftwaffe, the Waffen SS, and the Reich Health Department.

The conclusion is inescapable that the crimes of these responsible leaders is a hundred fold greater than that of the wretches who executed the murderous experiments in the concentration camps. Theirs was the power, the opportunity, and the duty to control and their failure is their everlasting guilt.

PRECEDENTS

This Tribunal is faced with no difficult legal questions as to whether the acts proved in this case constituted crimes. Many of the medical experiments with which this case is concerned have long since been held to have been criminal by a number of different courts. The International Military Tribunal stated that:

"The inmates were subjected to cruel experiments at Dachau in August 1942, victims were immersed in cold water until their body temperature was reduced to 28° Centigrade, when they died immediately. Other experiments included high altitude experiments in pressure chambers, experiments to determine how long human beings could survive in freezing water, experiments with poison bullets, experiments with contagious diseases, and experiments dealing with sterilization of men and women by X-rays and other methods."¹

The International Military Tribunal held that the foregoing experiments constituted War Crimes and Crimes against Humanity.

In the case against Erhard Milch, recently concluded before Military Tribunal No. II, the high altitude and freezing experiments performed at Dachau were adjudged to be crimes. Similarly, in U.S. vs. Weiss et al., tried before a Military Commission in Dachau, a large number of Dachau concentration camp officials were found guilty on proof including the high altitude, freezing, malaria, sepsis, and seawater experiments. Dr. Claus Schilling was sentenced to death for his part in the malaria experiments. In a recent case in the British Zone concerning atrocities committed in the Ravensbruck Concentration Camp, Schiedlausky, Rosenthal, and Treite, who were camp doctors in Ravensbruck, were all tried and sentenced to death, in part on the basis of evidence of sulfanilamide and bone, muscle, and nerve regeneration experiments which were performed by the defendants Gebhardt, Fischer and Oberhauser.

¹Trial of the Major War Criminals, Vol. 1, p. 252.

The law with respect to the criminality of the so-called euthanasia program in the Third Reich is equally clear. This Tribunal is not called upon to define with juridical nicety what a state may lawfully legislate with respect to euthanasia. The Prosecution asks only that this Tribunal find, as other Tribunals have already held, that there was no valid law in the Third Reich permitting euthanasia and that the execution of persons under the guise of euthanasia, with the connivance and assistance of the defendants Karl Brandt, Brack, Blome and Hoven constituted the crime of murder and was a War Crime and Crime against Humanity. Again, the foremost authority on the legality of euthanasia as practiced under the Nazis is in the Judgment of the International Military Tribunal. It was there held that:

"During the war nursing homes, hospitals, and asylums in which euthanasia was practiced as described elsewhere in this judgment, came under Frick's jurisdiction. He had knowledge that insane, sick, and aged people, 'useless eaters', were being systematically put to death. Complaint of these murders reached him but he did nothing to stop them. A report of the Czechoslovak War Crimes Commission estimated that 275,000 mentally deficient and aged people, for whose welfare he was responsible, fell victim to it." ¹

This finding draws no distinction between German nationals executed under the program and non-German nationals. These executions are described with the word "murder" and constitute War Crimes and Crimes against Humanity under the Charter and Control Council Law No. 10. This was one of the principle crimes which led to the judgment of guilty and the sentence of death against Frick. How much greater is the guilt of the defendant Karl Brandt.

The review of the Deputy Theater Judge Advocate in the case of the U.S. vs. Klein, Wahlman, et al., held at Wiesbaden, Germany from 8 through 15 October 1945, is a

¹ Ibid., Vol. 1, p. 301; see also p. 247.

clear precedent that the execution of non-German nationals pursuant to the euthanasia program constituted the crime murder. Since the end of the war, German and Austrian courts have repeatedly held that the killing of persons of any nationality under the guise of euthanasia was in violation of the German Criminal Code and punishable as murder. It is interesting to note that in a case before the District Court for Criminal Cases in Vienna in July 1946, Dr. Ernst Illing, who was charged with putting to death children under the euthanasia program, testified that he was called up by Hefelmann, one of the subordinates of the defendant Brack, and given a letter signed by Adolf Hitler according to which the defendant Karl Brandt was given the task of putting into effect and working out administrative regulations for the killing of incurable idiotic children. Illing stated that after examination and decision by a scientific medical committee, Dr. Brandt, or the deputy designated by him, would give the order in each individual case. Illing was found guilty as charged and sentenced to death by hanging.

The Court of Assizes in Berlin, in the session on 25 March 1946, found the defendants Hilde Wernicke and Helene Wiecezorek guilty of murder and sentenced them to death for their activities in the euthanasia program. The Court of Appeals in the same case rejected the appeals of both defendants. The court stated that, "It cannot be mistaken that the defendants Wernicke and Wiecezorek are only the last links of a long chain, and that they were preceded by persons whose guilt is still greater." In Karl Brandt and Victor Brack we have in this dock the first and third links in that long chain. The second link, Mr. Bouhler, has found his salvation in self destruction with a time bomb. Not far behind in this chain of organized mass murder was

the defendant Blome and while Hoven may not have sat among the leaders, he was more tangibly rewarded by way of bribes as the paid killer of Buchenwald.

Defenses

Time does not permit a detailed analysis of the proof against these defendants. The Prosecution is filing with the Tribunal briefs against each of the defendants, and I shall therefore restrict myself to a few observations about the common defenses and a number of the more interesting specific defenses.

The defense evidence comes from three main sources - affidavits, witnesses, and testimony of the defendants. The overwhelming bulk of the defense documents consists of affidavits. These, for the most part, are affidavits as to character, which are replete with such statements as ".....I cannot imagine that he approved or even knew of the 'scientific' experiments which scorn all humanity and all medical ethics."¹ Then there was a great flood of affidavits swapped around among the defendants themselves, which usually take the form of saying, in effect, "I didn't mean what I said about you before the trial began." There is scarcely a defendant in the dock who was not the grateful beneficiary of a few kind words from that resistance worker Sievers. This reached the extreme when several defendants submitted affidavits in their own behalf.

When one sifts through this mountain of affidavits, a small residue is finally reached which bears, to a greater or lesser degree, upon the ultimate facts in issue. These

¹ Handloser Ex. 49

we find are, in the most part, sworn to by parties to the very crimes which they seek to explain away. Among them, to name a few, are statements by Miss Crodel, assistant to Haagen in the Natzweiler typhus experiments; Blumenreuter, chief of the office for Chemical and Pharmaceutical Service under Genzken and supplier of equipment for a number of experiments, including the sulfanilamide and freezing crimes; Cremer, chief of the Medical School for Mountain Troops at St. Johann under Handloser, and a collaborator with Rascher; and Vonkennel, chief of the Experimental Department V in Leipzig and a collaborator of Poppendick in the Buchenwald typhus experiments. Such affidavits lack any credibility whatever. Vonkennel, to give a specific case, solemnly assured us in his sworn statement that his Research Department V "never had anything to do with the hormone experiments of Dr. Vaernet, with typhus, or with experiments concerning burns".¹ However, in a letter from Poppendick to Mrugowsky, which was submitted by the Prosecution after Herr Vonkennel's affidavit, he requested that a drug developed by Vonkennel be tested as to its therapeutical effect on typhus in the experimental station in Buchenwald and concluded his letter by stating that:

"Professor Dr. Vonkennel considers it very advisable that Dr. Ding should call on him in his clinic in Leipzig for the purpose of discussing this rather different therapy. The necessity for absolute secrecy is stressed to all institutions concerned."²

I need not remind the Tribunal that the drug was in fact sent to Buchenwald for testing in the criminal typhus experiments.

Then there are the affidavits which attempt to explain away this or that document which shows the crime on its very face. Schroeder and Becker-Freyseng, finding themselves in this embarrassing dilemma with respect to the report on the

¹ Poppendick Ex. 7

² NO-1184, Pros. Ex. 476, R. 5639.

seawater conference of 19 and 20 May 1944, obtained from the obliging Christensen, who signed the damning report, an answer to their figurative appeal to "say it ain't so". Christensen in his sworn statement said, in effect, that the report was drawn up from memory several days after the event by his assistant Schickler, who was really a pretty stupid fellow anyway and was not apt to understand or remember much which went on in the meeting, that although he (Christensen) signed the report he didn't read it, and in any event Schroeder's office called him after their receipt of the report and pointed out numerous, but unspecified, mistakes, and that he didn't change the report because it was superseded by a latter meeting.

Yes, it was all sweetness and light, if one finds it possible to believe the statements of these parties to the crimes. What has been said with respect to the defense affidavits is also true of the defense witnesses. Those few who were in a position to know what they were talking about were testifying as much for themselves as for the defendants. It is patently impossible to deal with the testimony of all these witnesses, but one may take Bernhardt Schmidt and Eugene Haagen as typical cases. The Ding Diary on the typhus experiments in Buchenwald proves that on 8 February 1943, Dr. Eyer of the Typhus and Virus Institute of the OKH in Cracow, which was subordinated to Handloser, and Dr. Schmidt, a hygienist attached to Handloser's staff, inspected the typhus experimental station. This entry in the Ding Diary was corroborated by the work report of the Typhus and Virus Institute of the Waffen SS in Buchenwald for the year 1943. Schmidt was called as a witness for the defendant Handloser and testified that he and Eyer made the long trip to Buchenwald for the very important purpose of demonstrating to certain SS doctors, whom he could not name, how a glass

container of yellow fever vaccine should be broken open. Although Eyer and Schmidt were very much interested in typhus problems, and although there was a typhus experiment in progress in Buchenwald on the very day they were there, Dr. Schmidt asks the Tribunal to credit his testimony that they knew nothing of that. Even the defendant Rose found Dr. Schmidt's testimony somewhat hard to accept. He said: "Bernhardt Schmidt's testimony is clear proof to me what sort of nonsense a witness can say when he is under the pressure of fear and if afraid he will express himself to publicity and to the public eye by his testimony".¹

Eugene Haagen, who was called principally on behalf of Schroeder, Rose and Becker-Freyseng, to explain his typhus experiments in Schirmeck and Buchenwald, told an equally incredible story. He carried out vaccinations in these concentration camps only because the camp commander feared an epidemic and Haagen wished to do what he could to avoid this danger. Although there was insufficient typhus vaccine in Germany to vaccinate all personnel especially exposed to the disease, Haagen showed admirable concern for the concentration camp inmates. He affirmed to the Tribunal time and again that he carried out no vaccinations in Schirmeck after May 1943 and in Natzweiler after February 1944. He testified that the Prosecution witness Hirtz perjured himself when he said that two of the inmates used by Haagen as experimental subjects in Schirmeck in the Summer of 1943 died. Haagen was squarely impeached on these and other significant points by the notes on his own typhus experiments, which he identified as having been written by Miss Grodel, his trusted assistant for many years. The entry for 6 July in these notes proves that on that day Haagen was in Schirmeck for the purpose of withdrawing blood

¹ Transcript, p. 6201 - 2.

from ten inmates who had been used to test a new living typhus vaccine. The entry gives the serum titer value of 8 of the experimental subjects, and is concluded with the laconic note "the other two were not here any more".¹ Thus, it would seem to even the most critical observer that the testimony of Hirtz, who personally sewed up the bodies of those two inmates in paper bags and delivered them for cremation, is somewhat more reliable than that of Haagen. The Crodel notes show that not only did Haagen conduct experiments in Schirmeck after May 1943, but that he was still doing so as late as January 1944. With respect to the criminal experiments in Natzweiler which he swore were finished in February 1944, the entry for 25 May 1944 states that 30 persons were inoculated in Natzweiler ... during the incubation period (a transport containing also sick people) 13 became sick in the period from 29 May to 9 June, of these 2 died".

Insufficient time is available to give the perjurious testimony of Haagen the attention it so richly deserves. But I think it fair to say by way of summary that substantially the only truthful answer he gave to questions propounded both by the defense and prosecution was when my distinguished opponent, Dr. Tipp, opened the examination by saying: "Your name is Dr. Eugene Haagen. You were born on the 17 June 1898 in Berlin. At present you are a prisoner in the court prison in Nurnberg. You are a doctor of medicine by profession and your speciality is hygiene and bacteriology", to which the witness responded: "Yes, that is correct".²

That other great source of defense proof - the testimony of the defendants themselves - must also be described, if one wishes to be charitable, as not above reproach. How many times have the defendants said,

¹ NO-3852, Pros. Ex. 521, R. 9660.

² Transcript, p. 9409.

"I have heard of that for the first time here in Nurnberg". This propensity for perjury on the part of the defendants was typified by the "highest Reich authority" in the medical services, Karl Brandt. Under questioning during cross-examination as to his connection with the phosgene gas experiments performed by Otto Bickenbach, Brandt testified that this research came to his attention in the fall of 1943 on the occasion of a visit to Strassbourg to see a cyclotron; that later he helped Bickenbach to obtain a laboratory for his work; that he assisted him in obtaining experimental animals even to the extent of having them flown from Spain; that Bickenbach did not conduct experiments on human beings; that he helped him in 1944 after the laboratory had been established in the vicinity of Strassbourg. The defendant Rostock was with Brandt when he saw Bickenbach in 1943 and later classified his research as "urgent". The Sievers Diary for 1944 proves that Bickenbach was performing his work under the control of Brandt. The entry for 2 February states that:

"....met Prof. Bickenbach in Karlsruhe, and he advises that he has put his research work under the control of General Commissioner Prof. Dr. Brandt."¹

Brandt admitted that he was in Natzweiler with Bickenbach, but insisted that, strangely enough, only animal experiments were conducted in this concentration camp. Evidence submitted by the Prosecution following this cross-examination proved beyond controversy that Brandt was advised of the details of Bickenbach's criminal experiments on Russian prisoners of war and that, indeed, this research was carried out with his support. An affidavit from Bickenbach himself states that he discussed the necessity of carrying out phosgene gas experiments on human beings with Brandt before

¹ 3546-PS, Pros. Ex. 123, R. 2629.

they were performed and that Brandt later advised him that the experiments had to be executed. The reports by Bickenbach on his experiments were all addressed to Brandt as Commissioner General of the Health and Medical Services. They show on their face that the experiments were performed on forty Russian prisoners of war and that four were killed as a result.

The defendant Gebhardt, who figuratively beat his chest and loudly proclaimed his willingness to tell the full truth, was not above false testimony on his own behalf as well as a few gratuitous perjuries for his colleagues Genzken and Mrugowsky, among others. Gebhardt, while assuming responsibility for the sulfanilamide experiments on Polish women in the Ravensbruck Concentration Camp, attempted to dissociate himself from the vivisections performed in the course of the bone, muscle, and nerve experiments. He testified that his sulfanilamide experiments were completed by December 1942 and he had no further connection. The affidavit of Fritz Suhren, camp commander of Ravensbruck, with experimental work in Ravensbruck, squarely contradicts Gebhardt in that regard. He stated that in the beginning of 1943 he contacted Gruppenfuehrer Mueller of the RSHA to have the experiments stopped because, among other reasons, they could not be kept secret, and that Mueller agreed. A short time later an assistant of Gebhardt's requested additional women for experimental purposes which Suhren refused. That same evening Gebhardt reprimanded Suhren and threatened to submit the matter to the Reichsfuehrer. Sometime later Suhren was forced to go to Hohenlychen and apologize to Gebhardt, as he puts it "in a very humiliating way". He was ordered to make three additional women available for Gebhardt's experiments. No one who has had occasion to observe Gebhardt's vain and overbearing manner in this courtroom can doubt the truth of Suhren's statements.

In his zealousness to protect his fellow defendants and heap all the guilt on Grawitz, Gebhardt testified that neither

the Hygiene Institute of the Waffen SS nor the defendant Mrugowsky, who at that time was subordinated to Genzken, played any part in the sulfanilamide experiments, and that the infection material was sent to him by Grawitz. Genzken and Mrugowsky, needless to say, ardently supported Gebhardt on this point. A preliminary report by Gebhardt on these experiments, certified as a true copy by Grawitz's assistant Poppendick, proves precisely the contrary. It states that "SS Oberfuehrer Dr. Blumenreuter put the complete surgical instrumentations and medicamentations at my disposal. SS Standartenfuehrer Mrugowsky put his laboratory and co-workers at my disposal." The report also states that:

"Since in this experiment too a definite gangrene could be produced clinically speaking, yet its picture did not in any way correspond to the one known in war surgery, after further consultation with the collaborators in the Hygiene Institute of the Waffen SS the vaccine was changed by adding wood shavings."¹

Even the most eminent scientist in the dock, the defendant Rose, tried to shield his guilt by a tissue of lies. The entries in the Ding Diary for 19 August 1942 and 8 March 1944 prove that typhus experiments were carried out in Buchenwald by Ding at the suggestion of Rose. Ten inmates were killed during the course of these experiments. Rose expressly denied the accuracy of these entries in the Ding Diary. He denied ever having sent vaccine to Mrugowsky or Ding to have tested in Buchenwald. He denied that Mrugowsky ever asked him for vaccines to be used in typhus experiments or that he ever negotiated with Mrugowsky in that regard. Mrugowsky has cheerfully testified that he, also, had nothing whatever to do with Ding's experiments in Buchenwald. He denied that he was ever approached by Rose to have vaccines tested in Buchenwald. He stated that: "If he had come to me I

¹ NO-2734, Pros. Ex. 473, R. 5622.

to me I would have sent him on to someone else. I would have said, 'My dear man, that does not have anything to do with me'." ¹ The perjurious testimony of these two defendants was clearly revealed by the subsequent introduction of the correspondence between them on the very experiments with which they denied any connection. On 16 May 1942 Mrugowsky wrote to Rose as follows:

"The Reich Physician SS and Police has consented to the execution of experiments to test typhus vaccines. May I therefore ask you to let me have the vaccines.

"The other question which you raised, as to whether the louse can be infected by a vaccinated typhus patient, will also be dealt with. In principle, this also has been approved. There are, however, still some difficulties at the moment about the practical execution, since we have at present no facilities for breeding lice.

"Your suggestion to use Olzscha has been passed on to the Personnel Department of the SS Medical Office. It will be given consideration in due course." ²

This letter forms the basis for the experiments carried out by Ding in Buchenwald on 19 August 1942 as reported in the Ding Diary.

These defendants were again thoroughly impeached by the letter of Rose to Mrugowsky of 2 December 1943 which reads , in part, as follows:

"At present I have at my disposal a number of samples of a new murine virus typhus vaccine which was prepared from mice livers and proved in animal experiments to be quantitatively a 1000 times more effective than the vaccine prepared from mice lungs. To decide whether this first rate murine vaccine should be used for protective vaccination of human beings against lice typhus it would be desirable to know if this vaccine showed in your and Ding's experimental arrangement at Buchenwald an effect similar to that of the classic virus vaccines.

1 NO-2734, Pros. Ex. 473, R. 5622.

2 NO-1754, Pros. Ex. 491, R. 6460.

"Would you be able to have such an experimental series carried out? Unfortunately I could not reach you over the phone. Considering the slowness of postal communications I would be grateful for an answer by telephone."¹

This letter in turn substantiates the entry in the Ding Diary for 8 March 1944.

These defendants, without exception, showed a very remarkable practice of economizing in the use of truth. The record is full of their outright false statements, double talk, fantastic explanations, absurd professions, dissimulations, and evasions. We have not even been spared the experience of at least one instance of deceitful and contemptuous alteration of original documents in a vain attempt to mask the truth. These things typify the philosophy of the National Socialists. As Justice Jackson said:

"When for years they have deceived the world, and masked falsehood with plausibilities, can anyone be surprised that they continue the habits of a lifetime in this dock? Credibility is one of the main issues of this trial. Only those who have failed to learn the bitter lessons of the last decade can doubt that men who have always played on the unsuspecting credulity of the generous opponents would not hesitate to do the same, now."²

One of the common defenses which has been utilized rather extensively in this case is a variation of the old "shell game" - now you see it, now you don't. This comes into most active play when we have a criminal who had two or more titles. Thus, for example, Haagen was simultaneously Consulting Hygienist to Air Fleet Reich with the rank of Stabsarzt and the Director of the Hygiene Institute of the University of Strassbourg. Also, Generalarzt Schreiber, one of the principal subordinates of Handloser as Army Medical Inspector, was Commander of the

¹ NO-1186, Pros. Ex. 492, R. 6463.

² I.M.T. Transcript, p. 14377.

Scientific Group of the Military Medical Academy and at the same time Plenipotentiary for the Combatting of Epidemics in the Reich Research Council. In the face of proof that both of these men engaged in a variety of crimes, the incriminated defendants have made the effort to hide the pea which is the crime under the shell for which they deny responsibility, while at the same time hopefully ignoring the obvious fact that the pea is under both shells. Thus, Schroeder, Rose, and Becker-Freyseng would have the Tribunal make the fantastic finding that the Rector of the University of Strassbourg was exclusively Haagen's boss and, if he did anything wrong, it was the Rector's responsibility. Handloser takes a similar line with the very unpopular Schreiber, and by some wonderous working of fate, every time Schreiber was sponsoring a criminal experiment he was acting in his capacity as a member of the Reich Research Council. Blome, according to his story, was only deputy to the "good" Conti while the "bad" Conti went his criminal way without the assistance of his chief collaborator. Poppendick and Grawitz had the same unique relationship. Genzken and Mrugowsky perform a similar bi-section of Ding; while his right hand was in the vaccine production plant at Buchenwald under their command, his left hand performed the criminal typhus experiments at the direction of Grawitz, and never the twain did meet. I will not consume the time and patience of this Tribunal by pointing up the wealth of evidence which proves that Haagen, as he indeed admitted, and Schreiber and Ding were performing their criminal research with the knowledge and active support of these defendants who are now so anxious to disown them. The Prosecution does not dissent from the consensus that other persons are also guilty of these crimes, including most certainly the Rector of the University of Strassbourg and the members of the Reich Research Council. After all, we have in Karl Brandt and

Blome, two of the six doctors who were members of the Reich Research Council. But the fact that other persons are equally guilty in no way serves to exculpate these defendants. The fact that these criminal experiments were performed with the knowledge and assistance and for the benefit of several different agencies only goes to prove that they were executed pursuant to a common design. Thus, the report on the first typhus experiment in Buchenwald, which cost the lives of five inmates, was sent by Mrugowsky to Conti as Reich Health Leader, in which capacity Blome was his deputy, Grawitz, Genzken, Eyer of the Typhus and Virus Institute subordinated to Handloser, and Dr. Demnitz of the Behring Works. The "shell game" is no defense. Guilt was indeed widespread, but that is neither exculpation nor mitigation for these defendants.

Another of the rather common defenses urged by the defendants is that the experimental subjects were criminals condemned to death who, provided they survived the experiment, were rewarded by commutation of their sentence to life imprisonment in a concentration camp. For one who has even the slightest knowledge of the conditions in concentration camps and the life expectancy of an average inmate, this alleged defense assumes the aspect of a ghastly joke. We need only recall the remark made by one of the women used by Rascher to reward his frozen victims in Dachau, who when asked by him why she had volunteered for the camp brothel, replied: "rather half a year in a brothel than half a year in a concentration camp". But the defects in this spurious defense run much deeper. Concentration camps were not ordinary penal institutions, such as are known in other countries, for the commitment of persons convicted of crimes by courts. The very purpose of concentration camps was the oppression and persecution of persons who were considered undesirable by the Nazi regime on racial, political, and religious grounds. Hundreds of thousands of victims were confined to concentration camps because they were simply Jews, Slavs, or Gypsies, Free Masons, Social Democrats, or Communists. They were not tried for any offense and sentenced by a court, not even a Nazi court. They were imprisoned on the basis of "protective custody orders" issued by the RSHA. Tens of thousands were condemned to death on the single order of Himmler, who, as Gebhardt put it so well, "had the power to execute thousands of people by a stroke of his pen".¹ There were, indeed, a relatively small group of inmates who might be classed as ordinary criminals. These were men who had served out their sentences in an ordinary prison and then were committed to concentration camps

¹ Transcript, p. 4025.

for still further detention. A memorandum of 13 September 1942 by Minister of Justice Theinack concerning a conversation with Himmler tells us the fate of those unfortunates:

"The delivery of anti-social elements from the execution of their sentence to the Reichsfuehrer SS to be worked to death. Persons under protective arrest, Jews, Gypsies, Russians and Ukrainians, Poles with more than 3 year sentences, Czechs and Germans with more than 8 year sentences, according to the decision of the Reich Minister for Justice".¹

The proof in this case has demonstrated beyond all doubt that so-called criminals sentenced to death were very rarely used in any of the experiments. True it is that Himmler said prisoners condemned to death should be used in those high altitude experiments where the long-continued activity of the heart after death was observed by the experimenters. He was generous enough to say that if such persons could be brought back to life, then they were to be "pardoned" to concentration camp for life. But even this unique amnesty had no application to Russians and Poles, who were used exclusively in those experiments.

But, assuming for the moment, that this alleged defense might have a mitigating effect under some circumstances, it certainly has no application to this case. Be it noted that this is an affirmative defense by way of avoidance or mitigation. There has been no proof whatever that criminals sentenced to death by an ordinary court could possibly be executed in a concentration camp. Such matters were within the jurisdiction of the Ministry of Justice, not Himmler and the SS. The experimental subjects we are dealing with are those that Himmler could condemn by a "stroke of his pen". If the inmate used in the experiments was condemned for merely being a Jew, Pole, or Russian, or, for example, having

¹ 654-PS, Pros. Ex. 562, R. 10695.

had sexual intercourse with a Jew, it does not answer the criminal charge to say that the victim was doomed to die. Experimentation on such a person is to compound the crime of his initial unlawful detention as well as to commit the additional crime of murder or torture. As has been said by another Tribunal, "Exculpation from the charge of criminal homicide can only possibly be based upon bone fide proof that the subject had committed murder or any other recognized capital offense; and, not even then, unless the sentencing Tribunal with authority granted by the State in the constitution of the court, declared that the execution would be accomplished by means of a low-pressure chamber".¹

In this connection, it might be noted that German law recognized only three methods of execution, namely, by decapitation, hanging, and shooting. (Germ. Penal Code, Part I, Par. 13; R.G.B.L. 1933, Part I, p. 151; R.G.B.L. 1939, Part I. p. 1457). Moreover, there is no proof that any of the experimental subjects had their death sentence commuted to any lesser degree of punishment. Indeed, in the sulfanilamide crimes it was the experiment plus later execution for at least six of the subjects.

Since the defendants Gebhardt, Fischer, and Oberhauser have put particular stress on this alleged defense, I should like to make a few remarks in that connection, but it should be remembered that they apply with equal force to most of the other defendants. Gebhardt, speaking for his co-defendants Fischer and Oberhauser, took the position that the Polish women who had been used in the sulfanilamide experiments had been condemned to death for participation in a resistance movement and that by undergoing the

¹ U.S. v. Milch, Concurring Opinion of Musmanno, J., p.53-4.

experiments voluntarily or otherwise, they were to have their death sentences commuted to some lesser degree of punishment, provided they survived the experiments. This was no bargain reached with the experimental subjects; their wishes were not consulted in the matter. It was, according to Gebhardt, left to the good faith of some one unnamed to see to it that the death sentences were not carried out on the survivors of the experiments. Certainly Gebhardt, Fischer, and Oberhauser assumed no responsibility or even interest in that regard.

It should be pointed out that the proof shows that the experimental subjects who testified before this Tribunal were never so much as afforded trial; they had no opportunity to defend themselves against whatever crimes they were said to have committed. They were simply arrested and interrogated by the Gestapo in Poland and sent to the concentration camp. They had never so much as been informed that they had been marked for, not sentenced to, death. Article 30 of the Regulations Respecting the Laws and Customs of War on Land, annexed to the Hague Convention, specifically provides that even a spy "shall not be punished without previous trial".

Gebhardt would have the Tribunal believe that but for the experiments all these Polish girls would be dead; that he preserved the evidence which was used against him. Nothing could be further from the truth. There is no proof in the record that these women would have been executed if they had not undergone the experiments. The witness Magzka is living proof of the contrary. She was arrested for resistance activities on 11 September 1941 and shipped to Ravensbruck on 13 September. She was not an experimental subject yet she lives today. Substantially all of the Polish experimental subjects

arrived in Ravensbruck in September 1941. These girls had not been executed by August 1942 when the experiments began. There were some 700 Polish girls in that transport. There is no evidence that a substantial number were ever executed even though most of them were not experimented on.

The proof submitted by the Prosecution has shown beyond controversy that these Polish women could not have been legally executed. The right to grant pardons in cases of death sentences was exclusively vested in Hitler by a decree of 1 February 1935. On 2 May 1935, Hitler delegated the right to make negative decisions on pardon applications to the Reich Minister of Justice. On 30 January 1940 Hitler delegated to the General Governor for the occupied Polish territories the authority to grant and deny pardons for the occupied Polish territories. By edict dated 8 March 1940, the General Governor of occupied Poland ordered that:

"The execution of a death sentence promulgated by a regular court, a special court, or a Police court martial, shall take place only when my decision has been issued not to make use of my right to pardon".¹

Thus, even though we assume arguendo, that the experimental subjects had all committed substantial crimes, that they were all properly tried by a duly constituted court of law, and that they were legally sentenced to death, it is still clear from these decrees that these women could not have been legally executed until such time as the Governor General of occupied Poland had decided in each case not to make use of his pardon right. There has been no proof that the Governor General ever acted with respect to pardoning the Polish women used in the experiments, or, for that matter, any substantial number

¹ NO-3073, Pros. Ex. 534, R. 10359.

of those not used in the experiments. The only reason these 700 Polish women were transported from Warsaw and Lublin to Ravensbruck, in the first place, was because the Governor General had not approved their execution. Otherwise they would have been immediately executed in Poland. At the very least, these women were entitled to remain unmolested so long as the Governor General took no action. He may never have acted or, when he did, he may have acted favorably on the pardon. Who is to say that the majority of these 700 women did not live through the war even though they did not undergo the experiments? Certainly it was incumbent on the defense to prove the contrary by a preponderance of the evidence. This it did not do by any evidence.

The defendants Gebhardt, Fischer, and Oberhauser certainly cannot claim that they believed in good faith that the Polish women could have been legally executed. Even the camp doctor, Schiedlausky, knew that the Governor General had to approve each execution. Moreover, the large number of 700 women being sentenced to death at this early stage of the war was enough to put any reasonable person on notice that something was wrong.

Additionally, the uncontroverted evidence proves that survival of the experiments was no guarantee whatever of avoiding execution in any event. At least six of the experimental subjects were proved to have been executed after having survived the experiments. It was not a question of the experiment or execution, but rather the experiment and execution. Indeed, in February 1945, an effort was made to execute all of the experimental subjects, but because of confusion in the camp due to the war situation, the experimental subjects were able to obtain different identification numbers and so avoid detection.

But even if one takes the case of the defense at its face value, the Tribunal is in effect asked to rule that it is legal for military doctors of a nation at war to experiment on political prisoners of an occupied country who are condemned to death, to experiment on them in such a way that they may suffer death, excruciating pain, mutilation, and permanent disability, all this without their consent and in direct aid of the military potential of their enemy. There would, of course, be no valid reason for limiting such a decision to civilian prisoners; the experiments would certainly have been no worse had they been performed on Polish or American prisoners of war. It is impossible to consider seriously this ghoulish ruling being sought for by the defense.

I should now like to turn briefly to the specific defenses of some of the defendants. It is a temptation to take up each defendant in his turn, but since my appropriate time does not permit, I can only hope that we will not be accused of partiality in selecting only a few for comment.

The defense of Handloser is a general denial. He says in effect that: I was a soldier. I was in charge of the medical administration of the Wehrmacht, but had no power and no right to issue orders, and that whatever may have happened, I am not responsible for it. It is interesting to note that this defense is very similar to that put forward by Field Marshal Keitel in this court room approximately a year ago. He was represented by the same defense counsel. Keitel also said that he could not issue orders. We have already discussed in some detail the position of Handloser, and it has been established beyond a shadow of a doubt that he was the supreme authority in the military medical services. We need not stop to consider the practical difference between

an order and a directive. We have pointed out that the opportunity and power to control the participation of the military medical services in these crimes was his. The evidence shows that Handloser was connected with a number of criminal medical experiments including the typhus and other vaccine experiments both in Buchenwald and Natzweiler, and the freezing, sulfanilamide, jaundice, gas, and the gas oedema experiments, among others. But it was his participation in the Buchenwald typhus experiments which now causes Handloser the most distress. The first entry in the Ding Diary proves that Handloser participated in the conference which decided that those experiments should be performed. This has brought forth a concerted attack on the authenticity of this document by Handloser as well as Mrugowsky. But after months of torturing and twisting, the diary has not been disproved in a single respect. To the contrary, it has been substantiated time and again by the introduction of independent documents which are too numerous to here detail. There is scarcely a line in the whole diary which has not been corroborated either by documents or by testimony. The defense itself proved that the diary was all typed on the same machine. The genuineness of the signatures of Dr. Ding, which appear on substantially every page, has been proved beyond controversy. The diary must be accepted as accurate in its entirety. There is no basis for accepting some entries and rejecting others. The defense has presented no creditable evidence of any inaccuracies. The living record of the deceased Ding is the best evidence of what actually happened.

But one could disregard the Ding Diary and the proof would still require a judgment of guilty with respect to

Handloser. The Buchenwald typhus experiments were also discussed at a preliminary conference on 29 December 1941 attended by a subordinate of Handloser. His office received a copy of the conference report. Medical officers under the direct command of Handloser were informed of the details of these experiments -- Eyer, Schmidt, and Schreiber. Eyer received a report on the first series of experiments and later, accompanied by Schmidt, visited the experimental station. Typhus infected lice as well as vaccines were furnished to Ding by the Typhus and Virus Institute of the OKH under Handloser. Ding reported on the typhus experiments at a Meeting of the Consulting Physicians called by Handloser and presided over by Schreiber. Additionally, the Buchenwald experimental station was used by Handloser to have yellow fever vaccines tested on inmates, the results of which were sent to his hygienist Dr. Schmidt. Combined vaccine experiments were conducted at Buchenwald on the suggestion of Handloser. Old blood plasma was tested on inmates of the "Little Camp" at Buchenwald for the Military Medical Academy under Handloser. The proof is quite clear that Handloser had knowledge of and participated in the criminal typhus experiments in Buchenwald, as well as other medical crimes.

Rudolf Brandt reached the pinnacle in the contest of self-abasement among the defendants. His testimony before the Tribunal can be summed up in one sentence: "I remember nothing". Aside from a description of Himmler as something in the nature of a Jekyll and Hyde, he contented himself with giving answers to leading questions put by his attorney which were calculated to reveal him as a disembodied stenographic automaton or a mechanically proficient half-wit. He complains that the Prosecution

only submitted 113 letters written or received by him to establish his complicity in these crimes - which he, indeed, admits. He wants the Tribunal to say he is really not very guilty since he was concerned with over 160,000 letters in a life-time at Himmler's side. Of course, this mechanical measure of proof submitted by the Defense works both ways. It can be urged with equal validity that he is twice the murderer that Sievers has been proved to be on, shall we say, 50 documents. I need hardly mention that a great number of these many other letters mentioned by Brandt concerned such matters as the kidnapping of Czechoslovakian children, the destruction of the Warsaw Ghetto, extermination of Jews, and the notorious Flier Order, which encouraged the lynching of Allied fliers who bailed out over Germany. The Prosecution does not contend that Rudolf Brandt was as important as Himmler. But he was an important administrative assistant to Himmler. While the basic decisions were made by Himmler, Brandt saw to it that they were carried out. If the principle of relative guilt has any place in the trial of men directly connected with the murder of thousands of persons, which the Prosecution submits it has not, then the significance of Brandt's position and his criminal activities comes into clear relief by comparison with that of the camp commander of Dachau and many of his subordinates, who have long since been sentenced to death for their participation in some of the same crimes charged in this Indictment.

Rudolf Brandt also pleads superior orders in mitigation. There is no evidence that Himmler ordered Brandt to participate in any crime. Brandt did so wilfully. There is no evidence that Brandt retained his position out of fear. He flourished in it. Nothing would have been easier for him than to be replaced out of request or

feigned inefficiency. Brandt was not a soldier on the field of battle. His activities were far removed from the confusion of the front lines. He did not act in the spontaneous heat of passion; he had full time to consider and reflect upon his course of action. He continued in his position from 1933 until his arrest by the Allies in 1945, no less than 12 years. This fact alone removes any basis for mitigation. Moreover, assuming that Brandt was ordered to commit the criminal acts which are the subject of this trial, when there is no fear of reprisal for disobedience, obedience represents a voluntary participation in the crime. Such is the case with Rudolf Brandt. Finally the doctrine of superior orders cannot be considered in mitigation where such malignant and numerous crimes have been continuously and ruthlessly committed over a period of many years.

What has been said with respect to Brandt applies equally to the defendant Fischer who also pleads superior orders. He knew at the time he performed these experiments that he was committing a crime. He knew the pain, disfigurement, disability, and risk of death to which his experimental victims would be subjected. He could have refused to participate in the experiments without any fear of consequences. This he admitted in saying, "It was not fear of a death sentence or anything like that, but the alternative was to either be obedient or disobedient during war, and thereby set an example, an example of disobedience."¹ Such an admission removes any basis for mitigation. A soldier is always faced with the alternative of obeying or disobeying an order. If he knows the order is criminal, it is surely a hollow excuse to say it must be obeyed for the sake of obedience alone.

¹ Transcript, p. 4374.

The defendant Beiglboeck attempts to run in all directions at once. The gypsies which he used in his experiments he tells us were volunteers, although he carried a pistol on his hip; they took the seawater willingly, although he found it necessary to tie one to his bed and seal his mouth with adhesive plaster to prevent him from obtaining fresh water; none of the experimental subjects suffered any harmful effects, although he contemptuously erased and altered the wording of a clinical record of one of the subjects in a vain effort to conceal from the Tribunal his desperate condition. This reluctant admission of fraud and deceit on his part came only after the proof left him no alternative, but he solemnly assured the Tribunal that he made no further changes in the documents. A further examination, however, shows that he did exactly the same thing with respect to another report of a subject's condition. But Beiglboeck's primary defense seems to be based on the proposition that it is not a crime against humanity to experiment on gypsies, since they are, at least according to Nazi doctrine, necessarily "asocial" persons. Beiglboeck apparently considers himself something of an expert on this subject. He testified that it was his understanding that a whole family could be classified asocial, although this "does not exclude the possibility that, in this family, there can be a large number of persons who did not commit any crime".¹ This notion that all gypsies are asocials is also apparently shared by his defense counsel who when cross-examining the witness Hoellenreiner said, "Listen, Mr. Hoellenreiner, don't evade my question after the fashion of gypsies".² It was also felt necessary to submit an extract from a work known as the "Gypsy Book", which reads in part as follows:

¹ Transcript p. 8848.

² Transcript 10518.

"The 'gypsy plague' from which we suffer is caused by large numbers of gypsy bands and individual gypsies roaming about the country between the Austrian, Swiss and French borders under the cloak of trading . . . thereby seriously endangering public security by their vagrancy. Besides begging, trespassing on fields, forest land and meadows, spreading the risk of epidemics and fires, trickery, these people are inclined to thievery."

While this book was published in 1905, it could not have been better written by Julius Streicher. Such Nazi doctrines of inferior races and peoples simply serve to explain how those crimes of man's inhumanity to man could have occurred.

In Sievers we have an unresisting member of a so-called resistance movement. He asks the Tribunal to free him from guilt for his bloody crimes on the ground that he was really working as an anti-Nazi resistance agent. Nor was he a late-comer to the resistance movement; according to him, he has been resisting since 1933. Yet in those 14 years, yes to this very day, he has not performed one overt act against the men who ran the system he now professes to have always detested. He joined the Nazi party as early as 1929 and the SS in 1935. He stayed with Himmler's gang until the last days of the collapse. He came to Nurnberg in 1946, not to give evidence of the horrible crimes of which he had first hand knowledge, but to testify in defense of the SS. During his testimony before the International Military Tribunal, he consistently denied any knowledge of or connection with crimes committed by the Ahnenerbe of the SS. It was left to the cross-examination of Mr. Elwyn Jones to prove him the murderer and perjurer that he is. Nor did he show any signs of resistance in this trial except to the manifold crimes with which he is charged. Not one new fact did he reveal to this Tribunal, although specifically asked to tell all he knew. If asked today, he will assure one and all that there is not a guilty man in the dock, and least of all himself. But, for purposes of argument, let us concede the truth of his many lies. It does not harm our case. It is not the law that a resistance

worker can commit no crime and, least of all, against the people he is supposed to be protecting. It is not the law that an undercover agent, even an F.B.I. agent, can join a gang of murderers, lay the plans with them, execute the killings, share the loot, and go his merry way. Many are the policemen who have been convicted for taking part in crimes they were entrusted to prevent. No, the sad thing is that this collector of living Jews for transformation into skeletons has only one life with which to pay for his many crimes.

In view of the clear and unequivocal proof of the defendant Rose's participation in the typhus murders of Buchenwald he can only plead that he didn't enjoy doing what he did, that he objected to the experiments at the Third Meeting of the Consulting Physicians of the Wehrmacht in May 1943. But this is his condemnation, not his salvation. In March 1942 he was in Buchenwald and saw what was being done. In May of the same year he asked Mrugowsky to test a vaccine for him in those experiments. Four inmates were killed as a result. In May 1943, he objected to the experiments in what he describes as strong terms. But in December, he was again instigating still another experiment which resulted in the murder of six men. He is a living example of a man who could have abstained from participating in these crimes without threat of harm to his person or position by any agency of the Nazi Government. He was not arrested and tried by the SS because of his objection. He was not committed to a concentration camp. In spite of that, he voluntarily participated in these same crimes to which he said he objected. With his knowledge, prestige, and position, he is even more culpable than the miserable and inexperienced Ding who actually performed the experiments in the murder wards of Buchenwald.

CONCLUSION

I have already mentioned briefly the principle of relative guilt, but before concluding I should like to say a few more words in that connection. Over the past half-year or more, we have all become acquainted with ghastly evidence of mass murders both from the record of this proceeding and the trials which have preceded it. It would not be surprising, therefore, that we might tend to regard a man who killed only three or five persons as a pretty nice fellow by comparison. For example, it might be said that Gebhardt, who admitted that three women died in his sulfanilamide experiments, is entitled to a somewhat different punishment than Karl Brandt, who conceded that 60,000 persons were executed under his euthanasia program. In response to a question put by a defense counsel, Dr. Ivy emphatically stated that "there is no justification in killing five people in order to save the lives of 500".¹ The idea that such thinking may be justified, with its inherent usurpation of the Lord's prerogative, is typical of Nazi thought. This whole system of Nazi mathematics is untenable in civilized society. This corruption of thought is found even in a mathematics problem book, published in 1935, for use by German school children. Under the guise of mathematics, the revulsion of normal children against the spreading of death by poison gas is insidiously broken down. Let us look at Problem 200 in this text book on mathematics and see what it says:

¹ Transcript, 9229.

"According to statements of the Draeger Works in Luebeck, in the gassing of a city only 50% of the evaporated poison gas is effective. The atmosphere must be poisoned up to a height of 20 meters in a concentration of 45 mg/m³. How much phosgene is needed to poison a city of 50,000 inhabitants, who live in an area of 4 square kilometers? How much phosgene would the population inhale with the air they breathe in 10 minutes without protection against gas, if one person uses 30 litres of breathing air per minute? Compare this quantity with the quantity of the poison gas used."¹

The same perversion of thinking in terms of Nazi mathematics also explains the mass extermination of what several defendants have called "lives unworthy of living", the aged, the crippled, and the insane. Any German high school student who had studied this book on mathematics could have told us that. Problems 95 and 97 tell the story more eloquently than we could possibly state it.

"Problem 95. The construction of an insane asylum required 6 million R.M. How many settlement houses at 15000 R.M. each could have been built for this sum?

"Problem 97. An insane person costs about 4 R.M. daily, a cripple 5½ R.M., a criminal 3½ R.M. In many cases a civil servant only has about 4 R.M., an office employee barely 3½ R.M., an unskilled laborer not even 2 R.M. per head of his family. (a) Illustrate these figures graphically. According to cautious estimates there are in Germany 300,000 insane persons, epileptics, etc. under institutional care.

(b) What is their total annual cost at a figure of 4 R.M.?

(c) How many marriage allowance loans at 1000 R.M. each - subject to renunciation of repayment of the money later - could be paid out from this money yearly?"

This Tribunal must solemnly reaffirm an entirely different type of mathematics; mathematics in the light of religious and humane education which teaches that the value of even one human life is infinite, which means, again mathematically expressed, that one times infinity is just as infinite as 500 times infinity.

¹ Mathematics in the Service of National Political Education With Practical Examples from Economics, Geography and Natural History, Adolf Dorner, 1935.

A distinguished American scientist said in this court room:

"There is no state or politician under the sun who could force me to perform a medical experiment which I thought was morally unjustified".¹

This was more than the viewpoint of an individual or of an American. Dr. Ivy expressed the opinion of all medical men and decent people of the civilized world. These defendants held a very different view in their day of pomp and power, and so these crimes resulted.

A prominent present day German leader has expressed the opinion that we are partly responsible for the snowballing consequences of rearmament in violation of treaties in 1936, because we did not then strongly enough express our disapproval. There is some logic in this statement, although it illuminates the tragic failure of being too dependent on guidance from outside rather than on the dictates of one's own conscience. Therefore, let there be no doubt about the degree of your condemnation of the acts of these defendants.

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¹ Transcript, p. 9229.

MILITARY TRIBUNAL NO. I

CASE NO. 1

CLOSING BRIEF FOR
THE UNITED STATES OF AMERICA
AGAINST

HERMANN BECKER-FREYSENG

James M. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

Nurnberg,
16 June 1947

For:

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War Crimes



INTRODUCTION

It is alleged in essence under Count One of the Indictment that the defendant Hermann Becker-Freysong conspired and agreed with others, pursuant to a common design, to perform medical experiments on involuntary human subjects; under Counts Two and Three (War Crimes and Crimes against Humanity, respectively) that he was a principal in, accessory to, ordered, abetted, took a consenting part in and was connected with plans and enterprises involving medical experimentation on involuntary human subjects. The defendant Becker-Freysong is charged with special responsibility for and participation in the high altitude, freezing, sea water, and typhus experiments.

In order to simplify the issues and to expedite the trial, the Prosecution has already withdrawn the charges of having participated in the yellow fever, smallpox, paratyphus A and B, malaria, diphtheria, and sulfanilamide experiments, and now withdraws the charge with respect to the epidemic jaundice experiments.

I. POSITIONS OF RESPONSIBILITY

The defendant Becker-Freysong joined the NSDAP in May 1933. He also held membership in the NSKK, the National Socialistic Motorized Corps, and the NSFK, the National Socialistic Flying Corps. (Becker-Freysong, R. 7780).

After the completion of his medical studies at Heidelberg, Innsbruck and Berlin, the defendant became an assistant at the University Clinic in Berlin. In August 1938, he became an assistant scientist at the Aviation Medical Research Institute of the Reich Air Ministry in Berlin under Professor Strughold. He eventually received his Doctor of Med. Habil. in Berlin in 1944, and in 1945 was appointed a lecturer on internal and aviation medicine. (Becker-Freysong, R. 7778).

In the summer of 1940, the defendant entered the

Luftwaffe with the rank of Unterarzt and eventually attained the rank of Stabsarzt. His first duty was at the Aviation Examination Station and in August 1941 was transferred to the Medical Inspectorate of the Luftwaffe as assistant referent in the Referat (Department) for Aviation Medicine. He remained in this position as assistant referent to Professor Anthony, the referent in the Referat for Aviation Medicine until May 1944. In May 1944, he became the Chief of the Department for Aviation Medicine and held that position until 8 March 1945.

In the Medical Service of the Luftwaffe, there existed twenty-five referats. A referat was a department within the Luftwaffe organization which dealt with specialized subjects; for example, there existed the Referat for Aviation Medicine, the Referat for Hygiene, the Referat for Internal Medicine, etc. As we have already pointed out, the Referat for Aviation Medicine was first headed by Professor Anthony with Becker-Freysong as his deputy and later by Becker-Freysong himself. (Becker-Freysong, R. 7779, 7809, 8087; NO-669, Pres. Ex. 16, R. 110).

Becker-Freysong testified that the position of the referent was one dealing with the technical and material preparations, whereas the consulting physician only rendered expert opinions to the Medical Chief. When the Inspectorate was concerned with a scientific proposal, then the referat would obtain the opinion or attitude of the consulting physician and report to the Inspector. The referent also gave his view regarding any such proposals. In order to put it explicitly, while a personal view was expected from the consulting physician, a material view was expected from the referent. (Becker-Freysong, R. 7811-2).

It is necessary to consider the work of the Referat for Aviation Medicine. The problems for which this referat was

responsible were first, the effects of acceleration, and second, the effects of high altitudes, or, in other words, the effects of the lack of oxygen. These two fields primarily were the classical fields involved in aviation medicine, but during the course of the war many new problems arose, e.g. general physiological questions about respiration and circulation, questions concerning general and special pathology which resulted from air accidents in the case of high altitudes, pharmaceutical questions, selection of flyers and training of flyers, sea, desert, and mountain emergencies, and the development of apparatus for the piloting of airplanes from the point of view of physiological and psychological considerations. In addition, carbon monoxide effects and the effects of heat, also arose during the air war and the referat had to deal with the construction and modernizing of low-pressure chambers, education of flying physicians, and orientation about special literature. In summation, aviation medicine comprises all spheres of medicine in its connection to the operation of aircraft, (Becker-Freysong, R. 7824).

In the Office for Aviation Medicine during the period from 1941 until the end of the war, no more than two persons were in authority, namely Professor Anthony and the defendant Becker-Freysong. (Becker-Freysong, R. 8087). Becker-Freysong joined the chorus of self-abasement from the dock and would have the Tribunal believe that he really had no authority and that Anthony limited his field considerably. This is a reductio ad absurdum. It would have to be concluded that when Anthony left the office for an extended period of time as he sometimes did, all business stopped and the office was literally locked. In addition to Anthony and Becker-Freysong, they had only clerical help in the Referat

for Aviation Medicine and on no occasion did the number of personnel exceed four. (Becker-Freysong, R. 8088).

The defendant Schroeder testified that Becker-Freysong was his consultant on aviation medicine, that "he knew best as to what was going on in general in the field of aviation medicine", that he was informed on all aviation medicine research work carried out by the Luftwaffe, that he received and reviewed all reports on such research. Becker-Freysong was responsible for the collecting and utilization of all the utilization of all the results of the research work in aviation medicine. He decided whether money should be granted. Schroeder said he was his scientific adviser.

(Schroeder, R. 3606-7).

The Referat for Aviation Medicine, in addition to concerning itself with problems in the field of aviation medicine, also issued all other research assignments made by the Luftwaffe. The defendant Schroeder stated that:

"Because of office technical reasons, all research assignments were dealt with in the department of Becker-Freysong, but it should not be understood that these assignments which had nothing to do with aviation medicine, for instance in the field of hygiene or dental care or other things, were also worked on in that Department, but they were only worked on down there in an official technical manner. As I explained yesterday; in order to deal with such assignments, certain formalities had to be abided by. These things were well known in the Department of Becker-Freysong and since the importance of these assignments came from the sphere of aviation medicine, this Department already before the time I came there received the office work with reference to all these assignments. With reference to the contemplated assignments which remained in the Department, we could see at all times what agency of my Department was actually working on the scientific questions." (Schroeder, R. 3618-9).

Thus, the testimony of Schroeder proves that the Department for Aviation Medicine was responsible for the coordination of all research assignments within the Luftwaffe. All assignments were issued out of that office.

Becker-Freysong was in a position to read reports and to have a clear knowledge of research in which the Luftwaffe was interested. Becker-Freysong, in effect, admitted this control over other fields. He stated:

"I said that the Referent for Aviation Medicine, aside from his 95% aviation assignments, also did purely formal work for the rest of the research assignments, even if not aviation medical assignments or in other fields."
(Becker-Freysong, R. 8089).

Becker-Freysong attempted to limit his responsibility by testifying that the research assignments were issued only by the Chief of the Medical Inspectorate himself, personally. (Becker-Freysong, R. 8090). That the Chief of the Medical Services was ultimately responsible goes without saying, but nothing could be clearer that the bulk of the work was done by Anthony and Becker-Freysong. The defendant Woltz said that the subordination of his Institute for Aviation Medicine at Munich was to Luftgau 8 for disciplinary measures and to the Office of Anthony, and later Becker-Freysong, for scientific purposes. It is, therefore, established that the Referent for Aviation Medicine was the research coordinator for the Chief of the Medical Services of the Luftwaffe.

In order to follow the activities with which the Referat for Aviation Medicine had interest, it is necessary to clarify the file designation of that office. The letter designation for the Aviation Medicine Referat was "2 II B" until the winter of 1942-43. This designation stood for "Abteilung 2, Group II, Referat B". In the winter of 1942-43, the letter designation of the Aviation Medicine Referat was changed to "2 F" and it remained "2 F" until about January 1944, when it became known as "2 II A". The work of the office was the same during all this time and the change in the letter designation merely reflected internal reorganization of the Medical Services of the Luftwaffe. (NO-448, p. 2).

Pres. Ex. 31, R. 235). In addition to the above letter or file designations, the Referat for Aviation Medicine had a registration number, "55". We will note later in this brief that these file or letter designations become very apparent in connection with the high altitude, freezing, sea water, epidemic jaundice, and typhus experiments.

It will be appreciated that in the course of medical research a proper coordination was necessary. During the war, the Luftwaffe was in a position where the use of supplies and materials, of physicians and scientists, and other research equipment, had to be carefully allocated. Coordination was necessary in order to avoid duplication of work. In addition to the Referats in the Luftwaffe Medical Inspectorate for various fields of medicine, there also existed a budget referat. But since this office was not familiar with all the research assignments in the Luftwaffe, it was not in a position to determine the allocation of funds necessary to carry out the various tasks. Hence, whenever any problem arose concerning the sum of money for experimental purposes, Becker-Freysong made the necessary recommendations to the budget office. He testified:

"The approval for any research assignment (wherein it was necessary to allocate funds) was reserved for the Medical Chief and before for the Medical Inspector. It was the task of the Referat to furnish necessary data in order to make that decision." (Becker-Freysong, R. 8109).

Becker-Freysong takes the position that the Chief of the Medical Services of the Luftwaffe, formerly Hippke and later the defendant Schroeder, was the only person in a position to approve the allocation of funds for use in experimental programs. While this may undoubtedly be true, the details upon which his decision was based were worked out by Becker-Freysong's office, as he himself admits.

II. PERSONAL PARTICIPATION IN CRIMINAL EXPERIMENTS.

A. High Altitude Experiments (Indictment, Par. 6 (A)).

The high altitude experiments are described in detail in the Prosecution's brief against Ruff, Romberg, and Woltz.

Becker-Freyseng's scientific knowledge in the field of high altitude research is considerable. In the years 1938 and 1939, he worked on time research experiments up to 9,000 meters and, in 1940, his work dealt with questions regarding adaption to high altitudes. (B-F, R. 7784).

The high altitude experiments which were performed in Dachau fell squarely within the field of aviation medicine for which Anthony and Becker-Freyseng were responsible. Yet Becker-Freyseng would have the Tribunal believe believe that he knew nothing about these experiments before they were performed. He contends that he first heard of the high altitude experiments conducted by Ruff, Romberg, and Rascher when he was informed that a film was to be shown at Milch's office on the experiments. This was in September, 1942. (R. 8114). It is quite obvious that an experiment of the scope performed in Dachau could not possibly have been carried out without the coordinated efforts of a large group of persons and very clearly the Department for Aviation Medicine was responsible for making all of the necessary arrangements. A research assignment had to be issued before the experiments could be performed. Funds had to be allocated to finance the experiments. All manner of equipment, such as the high altitude chamber, electro-cardiographs, and the like had to be provided. It was the very function of the Department for Aviation Medicine to take care of these problems. The high altitude experiments did not begin in full bloom on February 22, 1942 without considerably preparation and provision of equipment for those experiments. They had been discussed for nearly a year before they were performed and it is ridiculous to even consider that the deputy chief for the

Department for Aviation Medicine was not informed, and did not actively support those experiments. To believe Becker-Freyseng would require a holding that nobody knew anything about or did anything in connection with the experiments except Hippke, Weltz, Ruff, Romberg, and Rascher.

The movement of the low pressure chamber to Dachau is a good example of the necessity for the performance of substantial tasks by Becker-Freyseng's office. He admitted that one of his first assignments in his capacity as assistant to Anthony in the Department for Aviation Medicine was to conduct a survey of all the low pressure chambers. (R. 7827). They were under the central control of that office and in 1941 the German Luftwaffe had only four mobile chambers. Becker-Freyseng admitted that the pressure chambers were under his control, but as to the one used in the criminal high altitude experiments he argues that Ruff obtained permission for the transfer of the chamber to Dachau from Hippke directly. (R. 8103-4). Whatever may be the truth of this assertion, it is perfectly obvious that Hippke did not issue the orders himself to the driver of the low pressure chamber who took it to Dachau. Nothing could be clearer than that Hippke passed down instructions to the Department for Aviation Medicine to supply the necessary equipment for the Dachau experiments and that the physical movement of the chamber, together with the supply of other necessary equipment, was handled by Anthony and Becker-Freyseng. The chamber could not possibly have been moved to Dachau and retained there for six months without their knowledge.

The defendant Weltz testified that he was not in a position to give the basic permission to perform the Dachau experiments because the necessary orders had to originate

with the Luftwaffe Medical Inspectorate (R. 7050-7178). Is it to be held that Hippke personally wrote out the research orders for the high altitude experiments and concealed the fact of their execution from his own department which was created to handle just such things as that? A list of medical research commissions of the Luftwaffe in 1944, signed by Becker-Freyseng, shows six assignments to Ruff under Aviation Medicine. (NO-934, Pros. Ex. 458, R. 3655). Things were no different in 1942. Moreover, the results of the high altitude experiments were known to Becker-Freyseng. Those experiments were not performed as a simple academic pursuit, but for the purpose of providing scientific information of value to the Luftwaffe. The Department for Aviation Medicine was the very agency which received all such reports, which evaluated them, and which issued the necessary instructions based upon such reports. The purpose of performing the high altitude experiments was to determine the possibility of rescuing air crews from high altitudes. This involved such questions as the proper equipment which air crews should be provided to aid in such rescue, for example, automatic parachute releases, oxygen bottles, warm clothing, and the like. Nothing could be clearer than that the office of Anthony and Becker-Freyseng knew of the high altitude experiments from their very inception, issued the research assignment for them, provided the necessary equipment and funds for their execution, assisted in the preparation of the report, and evaluated the report for subsequent use in developing equipment by the Luftwaffe.

B. Freezing Experiments (Indictment, Par. 6 (B)).

The freezing experiments are described in detail in the Prosecution's brief against Sievers.

The defendant Becker-Freyseng admitted that in June 1942,

he saw files containing the proposals for a cold meeting to be held in Nurnberg in October. (R. 7849). At a later point, he said:

"I received an order to go down to Hippke with the files concerning the planned cold meeting in Nurnberg. Originally Anthony was to go there, but since he was not present, I was to replace him." (R. 8117).

He testified further that he was called to a conference by Hippke in Anthony's absence and that at such conference, Rascher was making arrangements for an experimental program to be conducted on concentration camp inmates. (R. 7850). It was perfectly clear in this conference in June 1942 between Hippke, Rascher and Becker-Freyseng that the experiments were to be performed in Dachau on concentration camp inmates. Becker-Freyseng stated that this was the occasion on which he first met Rascher and that he did not see Rascher again until the Nurnberg Cold Conference in October 1942. (R. 7855, R. 8116).

Becker-Freyseng asserted that he had nothing to do with the actual experiments and that his participation ended after the Rascher-Hippke-Becker-Freyseng conference in June 1942. (R. 7884-92).

The Prosecution does not contend that Becker-Freyseng performed the experiments. But it is contended that the necessary research order was issued by the Department for Aviation Medicine, that the funds and equipment were supplied by that office, and that Becker-Freyseng had knowledge of the experiments, as indeed he admitted.

A letter of 8 October 1942 from Anthony to Himmler, concerning the Nurnberg Cold Congress and the proposed report on the experiments by Holzloehner and Rascher, proves that the research order was issued by the Department for Aviation Medicine in which Becker-Freyseng served as deputy to Anthony. The letter reads as follows:

"Subject: Research order on Freezing
(Abkuehlung).

REFERENCE! 1) D.R.d.L. and Ob.d.L.Ch.d.Lw.
L.In. 14 Az: 55 No. 20058/41
(211 B) dated: 24/2/42
2) D.R.d.L. and Ob.d.L.Ch.d.Lw.
L.In. 14 Az: 21 c-r No. 10909/42
(1 II A) dated: 6/8/42

To the Reichsfuehrer-SS

The Inspectorate of the Medical Service of the Luftwaffe has given an order for research to the Stabsarzt Professor Dr. Holzloehner, reference above, dated 24 February 1942, for work on the following problem:

'The effect of freezing on warm-blooded subjects.'

At the proposal of Stabsarzt Dr. Rascher appropriate examinations were made of human beings, and in agreement with the Reichsfuehrer-SS suitable SS facilities were used for the examinations.

In order to carry out these examinations a research group 'Hardships at Sea' ('Seenot') was set up, consisting of Professor Dr. Holzloehner as leader and Stabsarzt Dr. Rascher and Dr. Finke.

The leader of this research group reported that the examinations have been concluded.

It is intended to dissolve the research group at the latest by 15 October 1942.

The research documents and an extensive report will be presented to the Reichsfuehrer-SS by Stabsarzt Dr. Rascher. It is requested that the originals or copies of the report and of the documents be put at the disposal of the Inspectorate of the Medical Service of the Luftwaffe.

It is intended to make the results, in the form of an extract, accessible to experts at a conference which will take place in Nuernberg on 26 and 27 October 1942. The daily schedule of the conference is enclosed". (NO-286, Pros. Ex. 88, R. 248).

The references in the research order to "2 II B" and "SS" prove the order was issued out of the office for Aviation Medicine in which Becker-Freyseng worked. Their interest in freezing problems began as early as February 1942 with the assignment to Holzloehner. Before the high

altitude experiments were even completed, the research team was enlarged to include Finke and Rascher. Note also the second assignment issued on August 6, 1942. This document proves conclusively that Becker-Freyseng's office supported the criminal freezing experiments from the very beginning.

The Cold Congress of the Luftwaffe held in Nurnberg on 26-27 October 1942, at which Holzloehner and Rascher reported on the criminal freezing experiments, was called and arranged by Anthony and Becker-Freyseng in the Department for Aviation Medicine. Anthony served as Chairman of the meeting. As to his functions in connection with such meetings, Becker-Freyseng testified that "all the conferences that took place under Anthony's referat, I had to organize. That is quite a job because there were discussions by 80 or 90 scientists who were going to read papers in two days". (R. 7894). He stated further that "the preparations for the meeting, not only this meeting, but all of the 12 meetings of this nature which the Luftwaffe held, were always made by the referent because he was in charge of discussions later and I had organizational tasks, just as later, for example in 1944, I assigned such duties to someone else". (R. 8121). Becker-Freyseng, of course, had to admit that he attended the conference in October 1942 and heard the lectures given by Holzloehner and Rascher. (NO-401, Pros. Ex. 93, R. 309). Yet, he takes the untenable position that this report did not make clear that the results were obtained by experiments on human beings, but that it could be concluded that they were tests made on persons rescued from the sea. This is hardly a defense for Becker-Freyseng since, as has already been pointed out, he was aware that

the freezing experiments were to be performed on concentration camp inmates as a result of his conference with Hippke and Rascher in June 1942. Certainly the report prepared under the auspices of the Department for Aviation Medicine, on this Cold Congress makes it perfectly clear that Holzloehner and Rascher were reporting on experiments, not on field observations. It is a little difficult to imagine how one could measure the rectal temperature and the stomach temperature thermoelectrically of an aviator in sea distress. Such things could be done only as a result of carefully planned and executed experiments. Moreover, the summary of Rascher's lecture in the report speaks of experiments where the neck only was cooled with freezing water. Such a thing would be utterly impossible in the case of observations made on an aviator who had been forced to bail out over the ocean. The comments of participants in the meeting on these lectures made it perfectly obvious that every one understood that the reports concerned experiments on human beings. The witness, Lutz, who attended this meeting, testified that the reports by Holzloehner and Rascher created a sensation at the meeting and that it was made evident that experiments had been performed on concentration camp inmates and that deaths had occurred. (Lutz, R. 272).

Freezing problems fell squarely within the jurisdiction of the Department for Aviation Medicine of which Becker-Freyseng was deputy chief. It is clear that the final report on the Holzloehner, Finke,

and Rascher experiments was received and carefully studied by that office. This report described the experiments in minute detail, even to the point of listing the number of deaths which resulted. (NO-428, Pros. Ex. 91, R. 252). It has been repeatedly testified to that the discovery of the warm bath method of treating prolonged exposure to cold was regarded as highly important and that medical directives were issued which prescribed this form of treatment. Prior to that time, the emphasis had been on use of slow re-warming and medicinal treatment. These medical directives could have been issued by no office other than the Department for Aviation Medicine. And they would never have been issued without a very careful study and evaluation having been made of the criminal experiments performed by Holzloehner, Finke, and Rascher which formed the basis for the directives.

Thus, Becker-Freyseng was assistant referant in the office which issued the research order pursuant to which the freezing experiments were carried out; he knew the criminal experiments were to be performed as early as June 1942 when he conferred with Hippke and Rascher; and he assisted in organizing and was in attendance at the Cold Congress where Holzloehner and Rascher lectured on the experiments.

C. Typhus Experiments in the Natzweiler Concentration Camp.

The typhus experiments performed by Stabsarzt Professor Dr. Eugen Haagen, Consulting Hygienist of the Air-fleet "Reich" in the Schirmeck and Natzweiler Concentration Camp are described in detail in the Prosecution's briefs against Rose and Schroeder.

The defendant Becker-Freysong stated that these typhus experiments were likewise not of interest to the Referat for Aviation Medicine and hence he was unaware that they were being conducted. He claims it was May 1944 before he found out that Haagen had a research assignment on typhus vaccines. (R. 7933). However, we find that as early as 9 June 1943, Rose was corresponding with Haagen concerning the establishment of vaccine production at the Hygiene Institute of the University of Strasbourg. In this letter Rose stated that he was requesting the Luftwaffe Medical Inspectorate to urge the Chief of the Medical Service of the Wehrmacht to order the production of typhus vaccines for all armed forces in the Eastern Area. (NO-306, Pros. Ex. 296, R. 1385). This document indicates that the research order for typhus vaccines had to originate from the Department of Aviation Medicine. Rose stated that it would be "some time until '2F' produces its new research order." The reference to '2F' designates the office of Anthony and Becker-Freysong. Becker-Freysong's contention that a research assignment or order in a field other than that of aviation medicine could not initiate from his office is without foundation in view of this document, signed by the defendant Rose, a Generalarzt in the Luftwaffe.

Proof that the research orders given to Haagen, pursuant to which he performed his criminal experiments, originated from the office of Anthony and Becker-Freysong, is found in a report dated 7 October 1943 to the Rector of the

Reich University Strasbourg from Dr. Haagen, listing the urgent research tasks with which his Institute was charged by the Luftwaffe. Among these, are yellow fever, typhus, and influenza assignments. Every one of these Luftwaffe research orders was issued by the office of Anthony and Becker-Freysen as proved by the designations "2 II A", "2F", and "2 II B" and the file reference "SS". (NO-137, Pres. Ex. 189, R. 737).

A list of medical research commissions issued by the Luftwaffe in 1944, on which Becker-Freysong was listed as reviser, includes Haagen's typhus vaccine research which was classified secret. (NO-934, Pres. Ex. 458, R. 3655). A statement of expenditures by Haagen during 1943 and 1944 for influenza research assignments issued by Becker-Freysong's office shows charges to the Luftwaffe for several trips to Schirmeck and Natzweiler Concentration Camps as well as telephone calls there. (NO-3450, Pres. Ex. 519, R. 9587). A similar account book kept by Haagen on yellow fever and typhus research tasks issued by Becker-Freysong's office shows expenditures from February 1942 to November 1944. His long continued activity in Schirmeck and Natzweiler is clearly apparent from these accounts, which were noted as having been settled with the Luftwaffe. (NO-3837, Pres. Ex. 542, R. 10365). Since Becker-Freysong's office authorized the issuance of funds for such research, it was also concerned with the expenditures.

Becker-Freysong denied that he knew that Haagen was performing experiments on concentration camp inmates. This is clearly proved to be a lie by Kahnt's letters to Haagen of 29 August 1944. (NO-131, Pres. Ex. 309, R. 1404). The original of this letter carries the file notation. "Az.: 55 Nr. 6028/44 geh. (2 II A)". (File notation not translated in English copy so refer to German). Thus, the letter was

written by the Department for Aviation Medicine of which Becker-Freysong was at that time Chief. This letter reads as follows:

" I. The research dealing with the dry spotted fever vaccine from vitelline sac cultures are to be continued. Therefore the 4,000 RM requested for the research fund are being placed at your disposal.

II. A decision as to the establishment of a vaccine manufacturing plant cannot yet be made because the chief of the Army Medical Service, who alone is competent to decide upon the procurement of vaccines, has not yet taken a stand in the matter.

III. Please advise whether it may be assumed that the spotted fever epidemic prevailing at Natzweiler at present is connected with the vaccine research.

IV. The report of 21 June 44 in which the investigations at Natzweiler are mentioned should have been sent as secret. In the future this procedure is to be followed." (NO-131, supra).

When Becker-Freysong was confronted with this letter on cross-examination, he made the ridiculous assertion that only the first paragraph was written by him. (R. 8177). The practice of having separate paragraphs in the same letter written by several different persons is rather too much to believe even in marvelous disorganization of the Medical Service of the Luftwaffe painted by the defendants. As to the first paragraph, Becker-Freysong stated:

"I was referent. Of course I had a part in the coordination of this money, not only I, but various other people, had part in the coordination of this money, and the final word was up to Schroeder, the Chief of the Medical Service or the Chief of Staff." (Becker-Freysong, R. 8181).

Here in this letter written by Becker-Freysong and signed by Kohnt, Chief of Staff to Schroeder, Haagen is asked whether the typhus epidemic prevailing at Natzweiler had any connection with his typhus research work there. This proves that Becker-Freysong knew that Haagen was performing

experiments on inmates with virulent typhus. Here we see that the office of Becker-Freysong initiated a letter for the signature of the Chief of Staff, which brings home knowledge on the part of Becker-Freysong that research work was being conducted in the Natzweiler Concentration Camp, that such research work was classified secret, and that Becker-Freysong, fully aware of the situation, allocated 4000 RM for the continuation of the work. The answer to this letter from Haagen, dated 19 September 1944, also refers to the communication dated 29 August 1944, bearing the code designation "2 II A". Moreover, Becker-Freysong visited Haagen in Strassbourg before the letter of 29 August 1944 was written and while the experiments were still in progress. (Haagen, R. 9569). Haagen testified Becker-Freysong came to see him about animals. Becker-Freysong admitted that he had seen many documents referring to Haagen's work (R. 7934) and that he knew Professor Haagen since he had met him with Schroeder and, in addition, had visited him in Strassbourg. (R. 7935).

E. SEA WATER EXPERIMENTS

The sea water experiments conducted on inmates of the Dachau Concentration Camp are more specifically outlined in the briefs against the defendant Schroeder. Becker-Freysong admits his knowledge of and participation in the sea water experiments. The proof has shown that he was the most active participant in the planning and preparations for the experiments.

On 19 May 1944, a conference was held at the German Air Ministry which was attended by Christensen, Schickler, Becker-Freysong and the defendant Schaefer. This conference was concerned with the problem of the potability of sea water. Two methods of making sea water drinkable were

then available to the medical services of the Luftwaffe, one the so-called "Schaefer method", which had been chemically tested and apparently produced potable sea water. It had the disadvantage, however, of requiring substantial quantities of silver which was available only in limited quantities. The second method, so-called "Berkatit" was a substance which changed the taste of seawater, but did not remove the salt. It had the advantage of simplicity of manufacture and use.

The background concerning the possibilities of producing a method to render seawater potable dated back to April 1942, when, at the suggestion of Becker-Freysong, the defendant Schaefer was given the assignment to see to it that the thirst problem was dealt with scientifically and for this purpose, he was sent to the Aviation Medical Research Institute in Berlin. (Becker-Freysong, R. 7980). During 1942 and 1943, Schaefer worked on this problem and experimented exhaustively on animals and technical assistants who had volunteered for this purpose. Schaefer finished his work in November 1943 and demonstrated his method to Becker-Freysong, Hippke, and Christensen. (R. 7982). However, in the meantime, another method had been developed which was referred to above as the so-called "Berka method" or "Berkatit".

At the conference on 19 May, the defendant Becker-Freysong reported on certain clinical experiments which had been conducted by von Sirany to test Berkatit. He came to the conclusion that the experiments had not been conducted under realistic enough conditions of sea distress. He reported that the Chief of the Medical Service of the Luftwaffe was

"convinced that, if the Berka method is used, damage to health has to be expected not later than 6 days after

taking Berkatit, which damage will result in permanent injuries to health and - according to the opinion of Unterarzt Dr. Schaefer - will finally result in death after not later than 12 days. External symptoms are to be expected such as dehydration, diarrhea, convulsions, hallucinations, and finally death". (NO-177, Pros. Ex. 133, R. 479).

As a result of this conference, it was agreed to conduct new experiments. They were to include a series of experiments for a maximum of six days during which one group of subjects was to be given sea water processed with Berkatit, another group ordinary drinking water, another group no drinking water at all, and the final group such water as was available in the emergency sea distress kits then used. A second series of experiments was decided upon and the report stated:

"Persons nourished with seawater and Berkatit, and as diet also the emergency sea rations.

Duration of experiments: 12 days.

Since in the opinion of the Chief of the Medical Service permanent injuries to health, that is, the death of the experimental subjects has to be expected, as experimental subjects such persons should be used as will be put at the disposal by Reichsfuehrer SS."

Thus, with full knowledge that the use of Berkatit for periods of six days would result in permanent injuries to the experimental subjects and that death would result no later than the 12th day, plans were made to conduct experiments of 12 days' duration. It should be noted that the conference report does not state that the duration was a minimum of 12 days as in the case of the first series of experiments, but were to be conducted for 12 days in any event. Since it was known that volunteers could not be expected under such conditions, the conference determined to use inmates of concentration camps which would be put at their disposal by the SS. At a second meeting on 20 May 1944, the report states that "it was

decided that Dachau was to be the place where the experiments were (to be) conducted." (NO-177, supra). Copies of the report on the conferences were sent, among others, to the Medical Experimentation and Instruction Division of the Air Force, Jüterbog, to which the defendant Schaefer and Holzschner, who conducted the freezing experiments with Rascher, were attached; the D.V.L., Berlin-Adlershof, to which the defendants Ruff and Romberg were attached; to the Medical Inspectorate of the Luftwaffe (L.In.14); and the Reichsführer SS. The report was signed by Christensen of the Technical Office of the R.L.M.

On 7 June 1944 the defendant Schroeder wrote to Himmler through Grawitz asking for concentration camp inmates to be used as subjects in the seawater experiments. This letter reads in part as follows:

"Earlier already you made it possible for the Luftwaffe to settle urgent medical matters through experiments on human beings. Today again I stand before a decision which, after numerous experiments on animals as well as human experiments on voluntary experimental subjects, demands a final solution: The Luftwaffe has simultaneously developed two methods for making seawater potable. The one method, developed by a Medical Officer, removes the salt from the seawater and transforms it into real drinking water; the second method, suggested by an engineer, leaves the salt content unchanged, and only removes the unpleasant taste from the seawater. The latter method, in contrast to the first, required no critical raw material (Engpassrohstoffe). From the medical point of view this method must be viewed critically, as the administration of concentrated salt solutions can produce severe symptoms of poisoning.

As the experiments on human beings could thus far only be carried out for a period of four days, and as practical demands require a remedy for those who are in distress at sea up to 12 days, appropriate experiments are necessary.

"Required are 40 healthy test subjects, who must be available for 4 whole weeks. As it is known from previous experiments, that necessary laboratories exist in the concentration camp Dachau, this camp would be very suitable." (NO-185, Pros. Ex. 134, R. 483, emphasis added).

Schroeder concluded his letter by stating that the experiments will be directed by the defendant Beiglboeck.

It is important to note that the first draft of this letter from Schroeder to Himmler was dictated by the defendant Becker-Freyseng. (Becker-Freyseng, R. 8210).

This letter proves beyond any doubt that the defendant Becker-Freyseng had knowledge of the previous criminal experiments conducted by doctors of the Luftwaffe on concentration camp inmates. Twice he mentions previous experiments which were made possible through the furnishing of inmates by the SS. The letter further proves that the experimental subjects were not to be volunteers. Schroeder, the signatory, and Becker-Freyseng, the writer, expressly stated in the second sentence of the first paragraph that animal experiments had already been conducted, as well as human experiments on "voluntary experimental subjects", but that the problem now demands final resolution since such experiments had been carried out for a period of only four days, while practical demands require a remedy for those in distress at sea up to 12 days. The defense has contested the translation of the second sentence in the first paragraph and has offered an alternative translation which would have Schroeder asking the Reichsfuehrer for voluntary experimental subjects. The translation experts of the Office of Chief of Counsel for War Crimes have certified to the translation quoted above and it is relied upon by the Prosecution.

That this translation is correct is entirely obvious from the conference report of 12 and 20 May 1944 which expressly stated that since deaths were anticipated in these experiments, only such persons would be used as were made available by Himmler. It is ridiculous to speak of volunteers in experiments in which death is anticipated as a foregone conclusion. Moreover, it should be remembered that the Luftwaffe had long since been experimenting on involuntary subjects in concentration camps. The sea water experiments were only one in a series of criminal experiments initiated by the Luftwaffe. Schroeder and Becker-Freysong turned to the SS because they knew of these previous experiments.

That these experiments were carried out on involuntary subjects is also apparent from Grawitz' letter to Himmler of 28 June 1944 (NO-179, Pres. Ex. 135, A. 485). In this letter, Grawitz reports the opinions of Gebhardt, Gluecks, and Nebe, as well as his own, on the proposed experiments. Gluecks stated that he had no "objections whatsoever to the experiments requested by the Chief of the Medical Service of the Luftwaffe to be conducted at the experimental station Rescher in the Concentration Camp Dachau. If possible, Jews or prisoners held in quarantine are to be used." It is impossible to imagine a Jew being asked to volunteer for anything in the Third Reich when they were being slaughtered by the millions in the concentration camps. Nebe stated that:

"I proposed taking for this purpose the asocial gypsy half-breeds. There are people among them, who although healthy, are out of the question as regards labor commitment. Regarding these gypsies, I shall shortly make a special proposal to the Reichsfuehrer, but I think it right to select from among these people the necessary number of test subjects. Should the Reichsfuehrer agree to this, I shall list by name the persons to be used".

It is a little difficult to imagine how Nebe, Chief of the Reich Criminal Police, could "list by name" gypsy volunteers for these experiments. Grawitz raised the objection to the use of gypsies on the ground that they were "of somewhat different racial composition" and he therefore wanted experimental subjects racially comparable to European peoples. Himmler decided that gypsies plus three others for control should be used. (NO-183, Pres. Ex. 136, R. 487).

The defendant Becker-Freysong, like Schroeder, testified that they tried to arrange for carrying out the sea water experiments at the Luftwaffe Hospital in Brunswick and that they also attempted to obtain students as experimental subjects from the Luftwaffe Medical Academy in the latter part of May 1944. They state that they only went to the SS after they had exhausted all other possibilities. The decision to use concentration camp inmates did not await any efforts to find volunteers. It was known that because of the very nature of the experiments that were planned, volunteers could not be obtained. Contrariwise,

it is impossible to believe that Schroeder and Becker-Freysong, in their positions of importance in the Luftwaffe, were unable to obtain 40 volunteers for the experiments if they were so innocuous as they claim. There were no regulations which forbade experiments on members of the Wehrmacht. Professor Hagen, in connection with his proposed epidemic jaundice experiments on human beings, as set forth in his letter of 27 June to Kalk, who was attached to the staff of Schroeder, insisted at great length that he planned to use volunteers from the student companies of the Wehrmacht at Strasbourg, Freiburg or Heidelberg. (R. 9578). Hagen was positive that student

volunteers would have been made available. He stated that he could have used them during vacations. Kalk was also sure that this could have been done. Haagen emphasized repeatedly that volunteers were available.

(R. 9580). Becker-Freysong testified that he knew that Berkatit would cause death in no more than 12 days. In fact, he emphatically stated that he was convinced that under certain circumstances, death would occur much sooner than 12 days if the Berka method were used. (R. 8198).

The testimony concerning the charts and the conditions under which the experimental subjects endured the experiments is outlined specifically in the Schroeder, Beiglboeck and Schaefer briefs and will not be dealt with here.

The defendant Becker-Freysong testified that he is responsible for the initiation of the sea water experiments at Dachau and that the reason for the experiments was based on the fact that the technical office believed that for economic reasons, the Berka method would be the best to be put into use. He stated that:

"I have explained in great detail as I believe that these economic reasons and raw material reasons were what influenced the technical office to advocate Berkatit and what, in the final analysis, determined Generalarzt Schroeder to have the question of Berkatit investigated by Eppinger and Huebner. Of course, if Berkatit had been just as good in its final effect, it would have been a great advantage if one could get along without the silver." (R. 8190-1).

The defendants Schroeder, Becker-Freysong, Beiglboeck, and Schaefer were well aware of the fact that Berkatit was dangerous, but they were willing to test it in order to satisfy themselves and the members of the technical office that such a method would not effectively render sea water potable. Becker-Freysong stated, when asked why he ordered

these experiments, as follows:

"I didn't want to have the experiments. Rather, I had to participate in the preparation for the experiments because it was my duty." (R. 8192).

He clearly admitted that Sirany's experiments showed that the Berka method was no good, (R. 8199) and when asked on cross examination, who suggested that inmates be used in the experiments, Becker-Freysong stated:

"I spoke of the possibility, in case we found no other experimental subjects, of making an effort to use inmates and not because the experiments were dangerous or could cause death but purely for organizational reasons". (R. 8206).

In drafting the letter to Himmler through Grawitz, Becker-Freysong exhibited clear knowledge of the procedure to obtain concentration camp inmates as experimental subjects. Becker-Freysong does not deny that he gave Beiglboeck the orders and instructions to experiment on concentration camp inmates at Dachau. He stated that Beiglboeck was subordinated to the Medical Inspectorate and that he ordered him to conduct such experiments in a manner as to "cause no serious damage to the health of the subjects and, of course, there should be no fatalities."

(R. 8050). Isn't it convenient for a defendant now to testify that he specifically said to a subordinate that under no circumstances were the experiments to cause serious damage to the health of the subjects, let alone fatalities? Beiglboeck testified that he requested that the experiments be conducted elsewhere, but Becker-Freysong refused this request of Beiglboeck's and ordered the experiments continued at Dachau. (R. 8082).

Becker-Freysong's participation in these experiments did not end with his making the arrangements for the experiments and in his instructions to the defendant Beiglboeck. He also attended the meeting in October 1944,

when Beiglboeck gave a full report on the results of his experimental work at the Dachau Concentration Camp.

III. CONCLUSION

The Prosecution submits that the evidence proves that Becker-Freysong was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving, and was a member of an organization or group connected with medical experimentation on human subjects without their consent, in the course of which experiments, murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts were committed, and that their guilt has been established under Counts I, II, and III of the Indictment.

M I L I T A R Y T R I B U N A L N O. I

CASE No. 1

CLOSING BRIEF FOR
THE UNITED STATES OF AMERICA
AGAINST
WILHELM BEIGLBOECK

Nurnberg,
16 June 1947

James M. McHanoy
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

For:

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War Crimes



INTRODUCTION

It is alleged under Count One of the Indictment that the defendant Beiglboeck conspired and agreed with others, pursuant to a common design, to perform medical experiments on involuntary human subjects; under Counts Two and Three (War Crimes and Crimes Against Humanity, respectively) that he was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experimentation on involuntary human subjects.

The defendant Beiglboeck is charged with special responsibility for and participation in the sea water experiments, as set forth in Paragraph 6 (G) of the Indictment.

RESPONSIBILITY FOR AND PERSONAL PARTICIPATION IN CRIMINAL EXPERIMENTS

The defendant Beiglboeck joined the NSDAP in 1933 and the SA in 1934. As membership in the NSDAP was illegal in Austria at different times between 1933 and the occupation of this country by Germany in 1938, he received his party number after the annexation of Austria. In the SA, Beiglboeck attained the rank of an Obersturmbannführer (Lieutenant Colonel). (NO-674, Pros. Ex. 20, R. 116).

Beiglboeck became a lecturer at the Vienna University in 1939 and an extraordinary professor of this University in 1944. (Beiglboeck, R. 8669-70). He obtained these two positions as assistant to Professor Eppinger. (Beiglboeck, R. 8669).

During the war, he served as a medical officer in the German Air Force with the rank of Stabsarzt (Captain). (Beiglboeck, R. 8674-5). In that capacity, he was directed by the defendant Becker-Freysong in June 1944 to carry out sea water experiments in the Dachau Concentration Camp. (Beiglboeck, R. 8677; cf. NO-674, supra).

The sea water experiments conducted on inmates of the Dachau Concentration Camp was a criminal undertaking from its very inception in May 1944. After two and one half years of murderous medical experimentation on concentration camp inmates by doctors of the Luftwaffe, including the high altitude freezing, gas, and typhus experiments at Buchenwald and Natzweiler, the defendant Schroeder, with certain knowledge that some of the subjects would probably die, personally ordered the carrying out of the sea water experiments. His subordinates, Becker-Freyseng, Beiglboeck, and Schaefer participated in the planning and execution of them.

On 19 May 1944 a conference was held at the German Air Ministry (RLM) which was attended by Christenson, Schickler, Becker-Freyseng, and Schaefer, among others. This conference was concerned with the problem of the potability of sea water. Two methods of making sea water drinkable were then available to the Medical Service of the Luftwaffe. One, the so-called Schaefer method, had been chemically tested and it apparently produced potable sea water. It had the disadvantage, however, of requiring substantial amounts of silver which was available only in limited quantities. The second method, so-called Berkatit, was a substance which changed the taste of seawater but did not remove the salt. It had the advantage of simplicity of manufacture and use.

At the conference on 19 May, the defendant Becker-Freyseng reported on certain clinical experiments which had been conducted by von Sirany to test Berkatit. He came to the conclusion that the experiments had not been conducted under realistic enough conditions of sea distress. He reported that the Chief of the Medical Service of the Luftwaffe was

"convinced that, if the Berka method is used, damage to health has to be expected not later than 6 days after taking Berkatit, which damage will result in permanent injuries to health and - according to the opinion of Unterarzt

Dr. Schaefer - will finally result in death after not later than 12 days. External symptoms are to be expected such as dehydration, diarrhea, convulsions, hallucinations, and finally death." (NO-177, Pros. Ex. 133, R. 479).

As a result of this conference, it was agreed to conduct new experiments. They were to include a series of experiments for a maximum of six days during which one group of subjects was to be given sea-water processed with Berkatit, another group ordinary drinking water, another group ordinary drinking water, another group no drinking water at all, and the final group such water as was available in the emergency sea distress kits then used. A second series of experiments was decided upon and the report stated:

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"Duration of experiments: 12 days

"Since in the opinion of the Chief of the Medical Service permanent injuries to health, that is, the death of the experimental subjects has to be expected, as experimental subjects such persons should be used as will be put at the disposal by the Reichsfuehrer SS." (NO-177, supra).

Thus, with full knowledge that the use of Berkatit for periods of six days would result in permanent injuries to the experimental subjects and that death would result no later than the 12th day, plans were made to conduct experiments of 6 and 12 days' duration. It should be noted that the conference report does not state that the duration was a maximum of 12 days as in the case of the first series of experiments. Since it was known that volunteers could not be expected under such conditions, the conference determined to use inmates of concentration camps which would be put at their disposal by the SS. At a second meeting on 20 May 1944, the report states that "it was decided that Dachau was to be the place where the experiments were (to be) conducted". (NO-177, supra). Copies of the report on the conferences were sent, among

others, to the Medical Experimentation and Instruction Division of the Air Force, Justerbog, to which the defendant Schaefer and Holzlochner, who conducted the freezing experiments with Rascher, were attached; the D.V.L., Berlin-Aldershof, to which the defendants Ruff and Romberg were attached; to the Medical Inspectorate of the Luftwaffe (L. In. 14); and the Reichsfuehrer SS. The report was signed by Christenson of the Technical Office of the R.L.M.

On 7 June 1944, the defendant Schroeder wrote to Himmler through Grawitz asking for concentration camp inmates to be used as subjects in the seawater experiments. This letter reads in part as follows:

"As the experiments on human beings could thus far only be carried out for a period of four days, and as practical demands require a remedy for those who are in distress at sea up to 12 days, appropriate experiments are necessary.

"Required are 40 healthy test subjects, who must be available for 4 whole weeks. As it is known from previous experiments, that necessary laboratories exist in the concentration camp Dachau, this camp would be very suitable."

Schroeder concluded his letter by stating:

"Direction of the experiments shall be taken over by Stabsarzt, lecturer (Dozent) Dr. Beiglboeck, civilian profession: Chief Physician of the Medical University Clinic in Vienna (Prof. Er. Eppinger)."
(NO-185, Pros. Ex. 134, R. 485, emphasis added).

That these experiments were carried out on involuntary subjects is also proved by Grawitz' letter to Himmler of 28 June 1944. (NO-179, Pros. Ex. 135, R. 485). In this letter Grawitz reports the opinions of Gebhardt, Gluecks, and Nebe, as well as his own, on the proposed experiments. Gluecks stated that he had no "objections whatsoever to the experiments requested by the Chief of the Medical Service of the Luftwaffe to be conducted at the experiments station Rascher in the Concentration Camp Dachau. If possible, Jews or prisoners held in quarantine are to be used." It is impossible to imagine a Jew being asked to volunteer for anything in the Third Reich when they were being slaughtered

by the millions in the concentration camps. Nebe stated that: "I proposed taking for this purpose the asocial gypsy half-breeds. There are people among them, who, although healthy, are out of the question as regards labor commitment. Regarding these gypsies, I shall shortly make a special proposal to the Reichsfuehrer, but I think it right to select from among these people the necessary number of test subjects. Should the Reichsfuehrer agree to this, I shall list by name the persons to be used." It is a little difficult to imagine how Nebe, Chief of the Reich Criminal Police, could "list by name" gypsy volunteers for these experiments. Grawitz raised the objection to the use of gypsies on the ground that they were "of somewhat different racial composition" and he therefore wanted experimental subjects racially comparable to European peoples. Himmler decided that gypsies plus three others for control should be used. (NO-183, Pres. Ex. 136, R. 487).

Schroeder testified that he tried to arrange for carrying out the sea water experiments at the Luftwaffe Hospital in Brunswick. He remembered very specifically, according to his testimony, that he had contacted the commander of that hospital on 1 June 1944. He stated that he also attempted to obtain students as experimental subjects from the Luftwaffe Medical Academy in the latter part of May 1944. Both of these attempts to obtain volunteers allegedly failed because of the lack of clinical facilities and the calling up of students to active service. Schroeder testified that he went to the SS only after he had exhausted all other possibilities. He would have the Tribunal believe that there was no place in all of Germany to find 40 volunteers and the necessary clinical facilities. (R. 3657-9).

In connection with this testimony of Schroeder's, it should be noted that the record of the conferences on

19 and 20 May 1944 was immediately sent to the SS. The decision to use concentration camp inmates did not await any efforts to find volunteers but was made at the conference of 19 May. It was known that, because of the very nature of the experiments which were planned, volunteers could not be obtained. Contrariwise, it is impossible to believe that the commanding officer of the whole of the Medical Service of the Luftwaffe was unable to obtain 40 volunteers for the experiments which he claims were so innocuous. There were no regulations which forbade experiments on members of the Wehrmacht. (Schroeder, R. 3660). The defense witness Haagen, in connection with his proposed epidemic jaundice experiments on human beings, as set forth in his letter of June 27, 1944 to Kalk, who was attached to the staff of Schroeder, insisted at great length that he planned to use volunteers from the student companies of the Wehrmacht at Strasbourg, Freiburg, or Heidelberg. (R. 9588). He was positive that student volunteers would have been made available. He stated that he could have used them during their vacations. (Haagen, R. 9579). Kalk was also sure that this could have been done. Haagen emphasized repeatedly that volunteers were available. (R. 9580). Clinical facilities would have been easily obtained in reserve hospitals. (Haagen, R. 9581).

The letter of the defendant Sievers to Grawitz, dated 26 July 1944, reveals that Beiglboeck, together with Sievers and Ploetner, the successor of Rascher, made arrangements for the experiments in the Concentration Camp Dachau. The experiments were to start on July 23 "if until then experimental persons are available and the camp commander is in possession of the order of the Reichsfuehrer SS he needs". (NO-182, Pros. Ex. 137, R. 487).

The charts kept by the defendant Beiglboeck on each of the experimental subjects, which the defense was finally forced into submitting in evidence, after attempting to use them through the defense "expert" Vollhardt without offering the documents themselves, give some of the details as to the experiments, although under the circumstances their reliability is doubtful. (Beiglboeck Ex. 34, R. 9381). Certain alterations in these records, which will be discussed at a later point, indicate that they are not entitled to great weight. The experiments began in August 1944 and continued until the first part of September. Forty-four experimental subjects were used. Subjects 1 to 6 were deprived of all food and water for periods from $5\frac{1}{2}$ to $7\frac{1}{2}$ days. The duration of the experiments given herein is based upon the starting date of the morning of 22 August as contended by the defense, although there is some evidence indicating that the starting date was 21 August. If the experiment was interrupted in the forenoon, no additional day or part thereof is counted. If it was interrupted between noon and 1700 hours, one-half day is added, while if it was interrupted after 1700 hours, a full day is added. Subjects 7 through 10 were given 1,000 cc of Schaefer water for 12, 13, and 12 days respectively, and hungered for 9, 8, and 9 days, respectively. Subject No. 9 was not used for reasons of health. This was the defense witness Mettbach. Subjects 11 through 18 were given 500 cc of sea water plus the emergency sea ration which contained approximately a total of 2400 calories. These experiments lasted from 5 to 10 days. They hungered up to 6.5 days. Several of these subjects, for example, 11, 13, 17, and 18 were subjected to two separate experiments of 8 and 6 days, 6 and 5 days, 7.5 and 5 days, and 10 and 4 days respectively.

Subjects 19 through 25 were given 500 cc of Berkatit plus the emergency sea ration. The duration of the experiments lasted from 5 to $9\frac{1}{2}$ days with periods of hunger up to 6.5 days. Subjects 19 and 20 underwent two separate experiments of 7 and 5 days each. Subjects 26 through 30 were given 1,000 cc of Berkatit plus the emergency sea ration. Duration of the experiments was from 5 to $9\frac{1}{2}$ days with periods of hunger up to $6\frac{1}{2}$ days. Subject 29 underwent two experiments of 8 and 5 days. Subjects 31 and 32 were given 1,000 cc of sea water for 8 and 6 days respectively. Subject 31 was subjected to an additional experiment of 5 days. Subject 33 was given 500 cc of Berkatit for 6 days; subject 34, 1,000 cc of Schaefer for 12 days; subjects 35 through 37, 39, 41, and 42 were given 500 cc of sea water for periods ranging from 4 to 6 days; subjects 38, 40, and 43 were given 1,000 cc of sea water for 6, 5, and 6 days; and subject 44 was given Schaefer water for 12 days.

The clinical charts on the experiments also supply us with the ages of the experimental subjects. Subjects 17, 19, 20, 35, 37, 40, and 43 were all under the age of 21. Subject 40 was 16 years old; subjects 17, 19, and 37 were 17 years old; subject 35 was 18 years old; subject 43 was 19 years old; and subject 20 was 20 years old. Needless to say, no effort was made to obtain the consent of the parents or guardians of these minors.

The defendant Beiglboeck testified that he reported to Berlin at the end of June 1944 where he was told by Becker-Freyseng that he was to carry out the seawater experiments at Dachau. He also saw Schroeder in connection with the experiments. He said he attempted to withdraw because he had a horror of working in a concentration camp. He did not refuse to perform the experiments because he was afraid of being called to account for failure to obey order. (R. 8828-9). Becker-Freyseng told him that the purpose of the experiments was, first, to find out if Berkatit was useful; second, to test the Schaefer method; and third, to see whether it would be better to go completely without sea water or to drink small quantities of it. (R. 8832). He said he was told by the officials in Dachau that the gypsies who were to be used in the experiments were held as "asocial" persons. Beiglboeck considers himself as an expert on asocials. He testified that it was his understanding that a whole family could be classified asocial, although this "does not exclude the possibility that, in this family, there can be a large number of persons who did not commit any crime." (R. 8848). His defense counsel is also apparently of the opinion that the torture of Gypsies is no crime - they are all asocial persons. In explaining his conduct in removing the names of the experimental subjects from a document which he had been ordered to produce by the Tribunal, he said:

"The motive was that in the case of the experimental subjects which we were concerned with, they were primitive, simple people who, as I already have tried to make clear from the gypsy book, in large part belong to families who are listed by the public authorities as asocial. I found 17 among these names who belong to asocial families here in Bavaria. I do not want to say anything about the experimental subjects, who suffered terribly. But if the matter should be followed up further, one would have to get a police record of everyone, and the family tree, and then one would certainly find out that my statements are correct". (Steinbauer, R. 9378).

To say the least of it, it was hardly the proper function of defense counsel to relegate to himself the decision as to the character and reliability en masse of the possible testimony of all the experimental subjects. He said in effect that he removed the names from the book in order to avoid having to meet their testimony. This mass condemnation of Gypsies is also apparent in the question put by Beiglboeck's defense counsel on cross-examination: "Listen, Mr. Hoellenreiner, don't evade my question after the fashion of gypsies". (R. 10518). See, also, the very edifying extract submitted from the "Gypsy Book" (Prosecution's closing argument).

He testified that he called the experimental subjects together and told them what the experiment was about and asked them if they wanted to participate. (R. 8849). He did not tell them how long the experiment would last. He did not tell them that they could withdraw at any time. He testified that he had to require that they thirst for a certain period. The decision as to their being relieved from the experiment lay with him. (Beiglboeck, R. 8850). During the course of the experiments he testified that the subjects revolted on one occasion because they did not get the food they had been promised. (R. 8863). They did not get food for several days because of a delay in delivery. (R. 8868). The subjects were locked in a room during the experiments. Beiglboeck testified that:

"They should have been locked in a lot better than they were because then they would have had no opportunity at all to get fresh water on the side." (R. 8864).

He stated that the danger zone would be reached in about seven days, drinking 500 cc of sea water, while in cases of 1,000 cc of sea water, it would be 4½ days. (R. 8876-7). Compare the much longer duration of the experiments as set out above.

It was readily apparent to the Prosecution after an inspection of the clinical charts kept during the course of the experiments that a number of alterations had been made in them. These records were in the exclusive possession of defense counsel prior to the testimony of Vollhardt, whose expert opinion was based in part upon such records. In a large number of instances the names of the experimental subjects have been erased from the charts, obviously in an effort to make it impossible to locate such persons for the purpose of giving testimony. An examination of the charts further reveals that the final weights of the experimental subjects were written on the charts in a different shade of ink than the remainder of the records. In some cases, these weights were written over the original pencil notations, for example on Chart C-2 the final weight of 62 kilograms in pencil was written over in ink to read 64½ kilograms. Beiglboeck admitted that the red arrows purporting to indicate the start of the experiments, usually appearing under the date August 22, were made by him in 1945, long after the experiments had been completed. (R. 8909). In charts 1 to 32 a red mark under the date August 21 appears, which would indicate that the experiments very probably began on that date. Certain notes in German shorthand appear on the back of chart C-23. Beiglboeck admitted that he wrote these notes himself. (R. 8970). Beiglboeck testified that:

"We (Beiglboeck and his defense counsel) were in agreement at all times that the charts and curves should be submitted in the same way as we received them here." (R. 8921).

He repeatedly stated that he did not make any erasures on the charts in Nurnberg. (R. 8922, 8973, 8975-6). When the proof left him no alternative, Beiglboeck finally admitted having made changes and erasures in the notes on the back of chart C-23 in Nurnberg. (R. 8978). These notes give a clinical report on one of the experimental

subjects who was critically ill. The following is a restoration of the original stenographic notes insofar as they could be translated:

"The thirst assumes forms difficult to endure. The patient lies there quite motionless with half-closed eyes. He takes no notice of his surroundings. He asks for water only when he awakes from his semiconscious condition. (half a line erased).

"The appearance is very bad and doomed. The general condition gives cause for alarm.

"Respiration flatter, labored, moderately frequent.

"Respiration 25 per minute.

"The eyes are deeply haloed, the turgor of the skin greatly reduced.

"Skin dry, tongue completely dry, whitish coating in the middle fairly loose.

"The mucous membranes of the mouth and the lips dry, latter covered with crusts. Lungs show slight very dry bronchitis lower border VI-XII, sharpened vesicular respiration.

"Heartbeats very low hardly audible. Filling of the pulse weaker. Increased thickness of walls of blood vessels. Frequency 72, liver 2 $\frac{1}{2}$ -3 fingers below sternal margin, rather soft, moderately sensitive to pressure, spleen on percussion slightly enlarged.

"Musculature hypotonic. Joints over-extendable. Calves slightly sensitive to pressure. Indications of transverse welt formation, marked longitudinal welt formation. Romberg plus plus. Reflexes plus plus. Abdominal reflexes plus plus. Babinski negative. Eife phenomenon. Oppenheim negative. Rossolimo negative. Tonus of the bulb of the eye bad. Bulbus reflex positive. (Interruption)".

Beiglboeck had substituted the word "somnolent" for the word "semi-conscious" in the last line of the first paragraph. In this same paragraph half a line was completely erased and could not be translated. Beiglboeck purported not to remember what it said, an obvious falsehood since it was erased out of fear of the truth. In the last sentence of the second paragraph, Beiglboeck altered the notes to read, "The general condition gives

no cause for alarm". In the first line of the eighth paragraph, Beiglboeck substituted the word "poorly" for "hardly". The notation "Romberg plus plus" means that the subject had an "uncertain" ability to stand. (Beiglboeck, R. 8982). He said that these notes refer to subject number 30 rather than subject 23. (R. 8984).

Beiglboeck testified that he made no further changes, erasures, or alterations in Nurnberg. (R. 8992). That Beiglboeck's testimony as a whole is completely unreliable is evidenced by the fact that he also made erasures in the notes on the back of chart A-29. These notes, insofar as they can be translated, read as follows:

"The throat again becomes very severe. Patient lies down on his back and rolls about. Also gets -----a typical stereotyped organic rigid seizure with severe tetanic symptoms such as from his -----, symptoms -----.
In view of the fact that in the last two days he has been drinking a great deal of water -----quarter plus half liter has been, he is being taken out of the experiment..

"3/9 Again taken into the experiment.

"5/9 Again complains about very severe thirst.

"6 Feeling of thirst very severe, tongue dry and coated. Fetid smell from the mouth. Skin dry and hot, liver significantly enlarged, reflexes very lively, blood vessels show thickening of walls, musculature over-excitable.

"7/9 Psychic state has changed. Somnolence. Tongue dry, musculature feels stiffened. Considerable weakness of musculature with atoxic manifestation. Romberg positive. Blood vessels still -----, pulse poorly filled, marked bradycardia, respiration accelerated. General condition (the next word erased and not legible), liver greatly enlarged."

In the case of subject 25, Beiglboeck testified that this man was X-rayed several times and apparently had acute bronchitis. His fever went up to 39.8 centigrade. (R. 8998). He complained of a stomach ailment before the experiment

began. (R. 9000). He was still sick when Beiglboeck left Dachau on 15 September. (R. 9002). Subject 39 was a man 49 years old. He was given 500 cc of Berkatit for a period of four days, namely, from 1 September to 4 September, when the experiment was interrupted at 1930 hours. Beiglboeck used the truth with characteristic economy when he testified that the man was under the experiment only three days. (R. 9010). He admitted having performed numerous lumbar and liver punctures on the subjects. (R. 8933).

A number of experimental subjects were able to gain access to fresh water in spite of the efforts of Beiglboeck to prevent it. Beiglboeck and his defense counsel assumed the anomalous position that this somehow mitigates his guilt. It is difficult to understand how this self help on the part of the subjects, which undoubtedly saved the lives of the majority of them, could be raised as a mitigating factor when Beiglboeck did everything in his power to prevent that. As a matter of fact, he did not even know that the experimental subjects in the first group, that is to say from 1 to 32, had been able to get to fresh water. He testified that:

"I should like to say that in the second group, when I knew their devices from my experience with the first group, I knew what to do and broke off the experiments. If I had wanted to continue the experiments, I would have done it in the second group too. This I did in the first group only because at first I did not realize the significance of the failure to lose weight." (R. 9022).

Thus Beiglboeck says, in effect, that although he did not know that the experimental subjects gained access to fresh water and although he continued the experiments far beyond what he himself knew to be the danger point, nonetheless he is to be excused because some of the experimental subjects drank fresh water secretly in spite of his efforts to prevent it.

The expert witness, Dr. Ivy, testified for the Prosecution concerning sea water experiments. He, himself, participated in an experiment of three days during which he consumed 2,400 cc of sea water with a caloric intake of 108 per day in the form of candy. He suffered marked dehydration and was at the point of developing hallucinations. A second volunteer in these experiments took 2,000 cc in a little over one day and developed vomiting and diarrhea to such an extent that the experiment had to be stopped. (R. 9038-9). Compare the amounts of sea water taken by Beiglboeck's subjects. For scientific data concerning the effect of seawater on the human body, see transcript pages 9039-41. Dr. Ivy pointed out certain basic inconsistencies in the testimony of the defense expert witness, Vollhardt. (R. 9041-43). Dr. Ivy testified that it was entirely unnecessary to perform these experiments for the purpose of establishing the potability of sea water processed by the Berka method. This could have been determined chemically in a matter of one-half hour. (R. 9043-4). He stated that if 1,000 cc of sea water or Berkatit were taken per day, it would cause death in less than 12 days. Death would occur between the 8th and the 14th day if 500 cc were consumed per day under ideal conditions. (R. 9045). The statement in the report of the conferences on 19 and 20 May 1944 that if Berka water was used, damage to the health was to be expected not later than six days and would lead to death not later than 12 days, is essentially correct. (R. 9044). This document shows that the planned duration of the experiments was 12 days. Dr. Ivy testified that it would be unnecessary to conduct experiments for more than three to four days to show that Berkatit was just as dehydrating as seawater. (R. 9046). He stated that these experiments make sense only if they were trying to determine the survival

time of human beings on 500 cc and 1,000 cc of sea water per day. It is clear that the experimental plan anticipated deaths. (R. 9046-7).

Dr. Ivy testified that on the basis of his studies of the charts kept during the course of the experiments, there was an insufficient observation period after the experiments to determine whether there were any delayed damaging effects to the experimental subjects. (R. 9049). The results of the experiments are not scientifically reliable. (R. 9051).

Dr. Ivy pointed out that the chart of subject 3 proved that he was too weak to stand and have his blood pressure taken on several occasions. (R. 9052). This was one of the subjects in the fasting and thirsting group. He was given an injection of coronine on 29 August and strychnine on 30 and 31 August. Both of these drugs are heart stimulants and the clinical picture indicates that this subject was ill or markedly disabled by the experiments. (R. 9053). Eight to fourteen days is the range of survival time of strong men under ideal conditions for thirsting and fasting. (R. 9053).

As a result of his study of the clinical records, Dr. Ivy testified that subjects 3, 14, 36, 37, 39, 31, 23 (or 30), 25, 28, and 29 were ill during the experiments. Subjects 3, 23 (or 30), and 25 were especially ill and there is a possibility that they were permanently injured or died as a result of the experiments. (R. 9058-9).

The subject to whom the notes on the back of chart C-23 applied was very sick and in a coma. (Ivy, R. 9061). The changes made in the stenographic notes by the defendant Beiglboeck make the subject appear to be in a better condition than he actually was. (Ivy, R. 9062-3). The bulbous reflex referred to in these notes means the pressing of the eyeball to determine the degree of coma.

"Tonus of ball of eyes is bad" indicates the blood pressure was low and the circulation was quite poor. This is a bad prognostic sign and might indicate impending death. (R. 9065). These notes indicate that the subject was in a dangerous condition and required immediate remedial therapy. The follow-up observation for subject 23 was four days, while on subject 30, five days. This was entirely insufficient. This subject could have died if not properly cared for. (Ivy, R. 9065-6).

Dr. Ivy testified that of the 44 subjects, 13 were too weak to stand on one or more occasions, had fever, required cardiac stimulants, or were unconscious, namely, subjects 3, 4, 14, 21, 23, 25, 28, 29, 32, 36, 37, 39, and 40. (R. 9067-8). The statement of the affiant Bauer to the effect that he observed symptoms of heart weakness in the experimental subjects as a result of certain electrocardiograms he took was corroborated by Ivy. (Ivy, R. 9069).

In Dr. Ivy's opinion, an experimental subject who agrees to undergo an experiment is no longer a volunteer if, during the course of the experiment, he is forced to continue after having expressed a desire to be relieved. (R. 9076-7).

The testimony of the defense expert, Vollhardt, is entirely unreliable. Although Vollhardt had nothing whatever to do with these experiments in Dachau, he repeatedly testified in a highly partial manner concerning matters about which he could not possibly have had any knowledge. For example, he insisted that the subjects in Dachau were volunteers. He testified that Beiglboeck eliminated three subjects before the experiments began because of their physical condition and that three other persons immediately volunteered. (R. 8457-8). Even Beiglboeck made no such contention. He said that he considered it "quite out of the question that the experimental subjects felt it necessary to drink water out of mops, because

there were air raid buckets and if they felt they needed a drink, they could drink out of them". (R. 8467). It is passing strange that Vollhardt could have such information when he was never in Dachau. He believed it quite impossible that any of the experimental subjects had cramps, although subject 29 is proved to have had cramps and organic seizures by the notes quoted above. Although Vollhardt admitted that the clinical data showed that a number of the experimental subjects had secretly obtained fresh water and although Beiglboeck admitted that some of the subjects threw their urine away (R. 8865), Vollhardt was quite sure that the experimental subjects were all volunteers.

Vollhardt made no study of the clinical notes himself but turned them over to a 25 year old assistant to digest for him. (R. 8432). He admitted that he relied on descriptions of the experiments made by Becker-Freysong and Beiglboeck since the trial began. (R. 8438). Vollhardt had had no previous experience with sea water problems nor had his assistant. (R. 8451). Vollhardt testified that he conducted a volunteer experiment on five of his doctor assistants after he had been approached by defense counsel. His subjects drank 500 cc of simulated sea water per day and received 1600 calories per day. (R. 8440-2). Four of the subjects continued the experiment for five days and one for six days. The latter subject drank an extra 500 cc on the last day. The purpose of these experiments was to ascertain how much a person suffers undergoing a sea water experiment. (R. 8443). Vollhardt's subjects continued their work about the clinic although they ate and slept in the same room. He does not know whether they went to the local cinema or left the clinic for other purposes during the course of the experiments. (R. 8445). Four of the subjects quit on the fifth day because of an engagement with a young lady. (R. 8450). He testified that his subjects

had no severe thirst on the first two days, it became unpleasant on the third, reduced thirst on the fourth, and very strong thirst on the fifth day; the subject who went six days reported that it made very little difference. All continued their work during the experiment. (R. 8453). It is obvious that this experiment in no way compared to those conducted in Dachau. While some of the experimental subjects in Dachau were too weak on many occasions to have their blood pressure taken, Vollhardt's subjects were able to continue their work. While Vollhardt's subjects were trained doctors who participated in the experiment because of interest, who were permitted to withdraw from the experiment at any time, who were permitted to control their own activities during the experiment, none of these important factors were present in the Dachau experiments. (R. 8479). The wretched gypsies were not permitted to withdraw when they felt like it. They did not know how long the experiments were to last, they had no freedom of activity, they had no interest in the experiment. Vollhardt's regard for these gypsies is apparent from his statement that ".....people like that will of course find a way" to cheat. (R. 8468). That Vollhardt knew nothing of the experiments he purported to testify about is apparent from his testimony regarding their duration. For example, he stated that in the Berkatit group of 500 cc, the experiments were discontinued after six days. (R. 8462). The clinical charts which Vollhardt had in his possession, and upon which his testimony purported to be based, show that the duration of the experiments in this group ran as high as 9½ days, and in all but two cases exceeded six days. He testified that the group on seawater was also discontinued after six days, while the clinical charts show some of them to have run as long as ten days. In the fasting and thirsting group he

testified that they were discontinued after four to five days, while the chart shows that they lasted from 5½ to 7½ days. (R. 8462-3). No, Vollhardt's testimony would indeed have been an unreliable substitute for the charts.

The testimony of the Prosecution witnesses proves that the seawater experiments resulted in murder and tortures. The Austrian witness, Vorlicek, who was tried for "preparation of high treason" in 1939 and sentenced to four years in a penitentiary, was transferred to Dachau in March 1944 and acted as an assistant nurse in the experimental station during the course of the seawater experiments. (R. 9383-5). One of the inmate guards who fell asleep was transferred to a penal company. (R. 9386). At least one of the subjects suffered a violent attack of cramps. (R. 9386). On one occasion Vorlicek spilt some fresh water on the floor and forgot the rag which he used to mop it up. The experimental subjects seized the dirty rag and sucked the water out of it. Beiglboeck threatened to put him in the experiments if it ever happened again. (R. 9387). The experimental subjects were not volunteers. Vorlicek talked to some of the Czech subjects who told him they had been asked in another camp to volunteer for a good outside assignment and only when they got to Dachau did they find out that they were to undergo the experiments. (R. 9388, 9392). He testified that the subjects were of Czech, Polish, Hungarian, Austrian, and German nationalities. (R. 9388). Some of the subjects were quite ill and he was under the impression that they would not live much longer. About three months after the experiments, he met Franz, one of the subjects, and he told him that one of the victims of the experiments had already died. (R. 9390).

The witness Laubinger, who was subject number 7, testified that he was arrested by the Gestapo in March 1943 because he was a gypsy. He was sent to Auschwitz in the spring of 1943 without having been tried for any crime. (R. 10199). He was later transferred to Buchenwald for a few weeks and while there he, together with other inmates, was asked to volunteer for a cleaning up work detail in Dachau. The inmates were under the impression that conditions were better in Dachau so they agreed to go. Upon their arrival at Dachau they were given a physical examination and X-rayed and then taken to the experimental station. (R. 10200). Beiglboeck told them that they were to participate in the sea water experiment and this was the first they knew of it. (R. 10201). Laubinger identified Beiglboeck in the dock. (R. 10202). He told Beiglboeck that he had had two stomach operations but Beiglboeck did not permit him to withdraw. Beiglboeck did not ask whether the subjects wished to volunteer and they did not volunteer. (R. 10203). Laubinger, who was in the Schaefer group, was given Schaefer water for 12 days and fasted for at least nine days. (See chart). He got so weak he could hardly stand up. The experimental subjects received special food for only one day after the experiment. Beiglboeck had promised them extra rations and an easy work detail, but these promises were not kept. (R. 10205). One of the subjects tried to persuade the others to refuse to drink the sea water. Beiglboeck threatened to have him hanged for sabotage. The subject later vomitted after drinking sea water, whereupon Beiglboeck had the water administered through a stomach tube. (R. 10207). Another subject was tied to his bed and adhesive tape was plastered over his mouth, because he had obtained some fresh water and bread. Most of the subjects were Czech, Polish, and Russian nationalities with approximately eight

Germans. (R. 10208). A number of subjects suffered attacks of delirium and two were transferred to the hospital and Laubinger did not see them again. (R. 10209).

The witness Hollenreiner corroborated the testimony of Laubinger in all important points. He testified that the experimental subjects did not volunteer (R. 10509) and that the majority of them were non-German nationals (R. 10513). Hollenreiner testified further that Beiglboeck showed no concern for the experimental subjects, but, on the contrary, threatened to shoot them when they became excited. (It hardly seems appropriate to wear a gun when experimenting on volunteers). He had no pity for them when they became delirious from thirst and hunger. (R. 10510). The witness Hollenreiner unfortunately assaulted Beiglboeck in open court. This impulsive act of the witness, however, speaks more forcefully than volumes of testimony as to the inhuman treatment of the experimental subjects and the suffering which was inflicted on them as a result of these experiments. We may rest assured that Hollenreiner was no volunteer. When explaining his behaviour to the Tribunal, Hollenreiner characterized Beiglboeck a "murderer". (R. 10233-4).

The witness Tschofenig was committed to Dachau in November 1940 where he remained until April 1945. He was a political prisoner. (R. 9331). He is presently a member of the Corinthian Land Diet in Austria. (R. 9332). From the summer of 1942 until the end, he was in charge of the X-ray station in Dachau. (R. 9334). He examined the transport of gypsies in the summer of 1944 before the experiments began and excluded a number of them as being unfit. (R. 9334-5). He saw Beiglboeck several times in the camp and in the X-ray station. (R. 9335). During the experiments, a number of those who got sick were brought to the X-ray station for examination. Their physical condition had deteriorated considerably as a result of the

experiments. He heard that one of the subjects had a maniac attack. (R. 9336). At the conclusion of the experiments, three of the subjects were brought to the station for internal diseases. One was on a stretcher and unable to walk. All of them were X-rayed by Tschofenig. (R. 9338). It was customary to send the results of the X-ray examinations to the hospital ward where the inmates were kept. Tschofenig received an official order from the station for internal diseases that it was not necessary to report on the stretcher case as he had died two days after his transfer. The station physician reported that the death resulted from the sea water experiments. Tschofenig examined the death records himself. (R. 9339).

Even Dr. Steinbauer, defense counsel for Beiglboeck, has apparently convinced himself that these experiments involved torture. He said, in explaining his conduct in with-holding part of a document the Tribunal had ordered produced, that: "I do not want to say anything about the experimental subjects, who suffered terribly." (R. 9378).

CONCLUSION

The Prosecution submits that the evidence proves that Beiglboeck was a principal in, accessory to, ordered, abetted, took a consenting part in, was connected with plans and enterprises involving, and was a member of a group or organization connected with medical experimentation on human subjects without their consent, in the course of which experiments murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts were committed, and that his guilt has been established under Counts I, II, and III of the Indictment.

MILITARY TRIBUNAL NO. I

CASE NO. 1

CLOSING BRIEF FOR
THE UNITED STATES OF AMERICA
AGAINST
KURT BLOME

James M. McHaney
Alexander G. Hardy
Arnost Harlik-Hochwald
Esther Jane Johnson

For:

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War Crimes

Nurnberg,
16 June 1947



Golden Party Badge, the highest decoration of the Nazi Party. (Blone, R. 4455-7).

In 1934 he became Minister of the League of German Physicians which later developed into the Reich Chamber of German Physicians. Blone held this position until the end of the war. In 1935 he was appointed Representative for the Development of Medical Study. In this position it was his task to organize the German medical educational system (Blone, R. 4458, NO-675, Pres. Ex. 37, R. 142-4). It was during his term of office as Representative for the Development of Medical Study that German medical science deteriorated and adherence to the Nazi ideology became the criterion for a scientific career. An attempt was made to shorten the time of medical studies in order to encourage students to marry as early as possible. New subjects, which were a fertile field for National Socialistic propaganda, were introduced in State examinations in order to indoctrinate the students with typical National Socialistic ideas. The National Socialist League of Students was created. Its purpose was to determine, during the first year of university study, whether the students were reliable from the National Socialistic point of view. (Leibbrandt, R. 1971). A student who did not belong to the National Socialist League of Students was considered suspect. If he did not belong to any party organization it was very difficult or even impossible for him to be admitted to the State examination. (Leibbrandt, R. 1984). Medical students had to pass examinations on racial theories and the Nurnberg Laws, which discriminated against the Jews. In qualifying for the position of University Lecturer, the

INTRODUCTION

It is alleged under Count I of the Indictment that the defendant Blome conspired and agreed with others, pursuant to a common design, to perform medical experiments on involuntary human subjects; under Counts II and III (War Crimes and Crimes Against Humanity, respectively) that he was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experimentation on involuntary human subjects, the murder and mistreatment of tens of thousands of Polish nationals, allegedly suffering from incurable tuberculosis, and the "Euthanasia" program.

The defendant Blome is charged with special responsibility in connection with the malaria and gas experiments, the murder and mistreatment of tubercular Poles, and the execution of the euthanasia program. The proof has also shown that he participated in the freezing, bacteriological warfare, and blood coagulation experiments. In order to simplify the issues, the Prosecution withdraws the charge of having participated in the sulfanilamide experiments.

I. POSITIONS OF RESPONSIBILITY

The defendant Blome held positions of great power and responsibility in the Medical Services of the German Reich and Nazi Party.

He joined the SA in 1931 and became Gaubmann, i.e., Highest Medical Official of the SA in the state of Mecklenburg. In 1934 he was appointed Gauleiter (Province Office Leader). In the SA he attained the rank of Gruppenführer (Major General). In 1943, he was awarded the

question of whether the applicant was a good Nazi was decisive. In order to make sure that only good Nazis were appointed, a complex spy system was employed. (Leibbrandt, R. 1985).

Blone himself was in charge of the Fuehrer School for German Doctors in Altres. (Blone, R. 4465). The purpose of this Fuehrer School was to indoctrinate young German physicians with the Nazi ideology. (Leibbrandt, R. 1963). The participation in the training process in Altres might well have been "voluntary", but it does not need an explanation that it was certainly a prerequisite for a successful medical career in Nazi Germany.

In 1939 Blone was appointed Deputy to the Reich Health Leader (Reichsgesundheitsfuhrer), Dr. Leonardo Conti. (Blone, R. 4458). Conti was the highest authority in the field of civilian health administration and had supreme powers over the highest Reich authorities in this respect. The decree of 28 July 1942, signed by Hitler, concerning health and sanitation defines this position of Conti:

"In the field of civilian health administration the Secretary of State in the Ministry of the Interior, and the Chief of the Health Administration of the Reich (Reichsgesundheitsfuhrer), Dr. Conti, is responsible for coordinated measures. For this purpose he has at his disposal the competent departments of the high Reich authorities and other subordinate offices." (NO-060, Pres. Ex. 5, . 93).

Conti was in charge of the Public Health Office of the Nazi Party, the professional medical associations, Department IV in the Reich Ministry of Interior (Health Department), and the Department for Social Security in the

Reich Ministry of Labor. (NO-645, Pros. Ex. 3, R. 84, Leibbrandt, 1978-9). In his capacity as Reich Health Leader (Reichsgesundheitsfuhrer), he was in charge of the Reich Chamber of Physicians and consequently all physicians in the German Reich, with the exception of those on active service in the armed forces and in the SS, were subordinate to him. There was not a single medical question which did not reach him, and which he did not regulate. (Leibbrandt, R. 1979-80). Conti's important position in the planning and execution of the euthanasia program is proved by the chart drawn by the defendant Bruck (NO-253, Pros. Ex. 331, R. 1532), and by the testimony of the defendants Karl Brandt (R. 2399, 2400) and Bruck (R. 7552-4).

Blome, according to his own testimony, was Conti's deputy as (a) Leader of the Reich Chamber of Physicians; (b) Head of the Main Office for Public Health of the NSDAP (Reich Health Leader); (c) Leader of the National Socialist Physicians' Association. (NO-675, supra; Blome, R. 4458).

Blome was also a leading member of the Reich Research Council. (Blome, R. 4496). He became Plenipotentiary for Cancer Research when this organization was placed under the leadership of Goering by decree dated 9 June 1942. (Blome, R. 4484, NO-694, Pros. Ex. 38, R. 144). It was the task of the plenipotentiaries to determine what kind of research in particular was to be encouraged and supported, and to choose the suitable scientists who should carry out such research. (Blome, R. 4484). His capacity as Plenipotentiary enabled Blome to issue research assignments for the freezing experiments of Rescher, and the Lost gas experiments of Hirt. (NO-690, Pros. Ex. 120, R. 371). He also

supported Rescher's Polypal experiments. (Blone, R. 4527). Blone also was placed in charge of research in connection with bacteriological warfare, which he carried out under the cover name Plenipotentiary for Cancer Research. (Blone, R. 4458).

The proof has shown that the Reich Research Council supported and furthered medical experimentation on involuntary human subjects - concentration camp inmates. As early as December 1942, the Reich Research Council was asked to pass judgment by the Reichsminister of Finance on a request for research funds by Reichsarzt SS Grewitz. Dr. Mentzel of the Reich Research Council approved of this allocation of funds on 25 March 1943 saying: "As far as they, to a smaller part, are meant for the extension of scientific research possibilities they pertain exclusively to such matters which can be carried out only with the material (prisoners) accessible to the Waffen SS and therefore cannot be undertaken by any other research agency." (002-PS, Pros. Ex. 39, R. 152). (Transcript is incorrect at this point and reference should be made to Document Book No. 1). The Prosecution called the Tribunal's attention to the finding of the International Military Tribunal in Case No. 1 which reads as follows:

"In connection with the administration of the concentration camps, the SS embarked on a series of experiments on human beings which were performed on prisoners of war or concentration camp inmates. These experiments included freezing to death and killing by poison bullets. The SS was able to obtain an allocation of Government funds for this kind of research on the grounds that they had access to human material not available to other agencies." (R. 153).

The activities of the Reich Research Council in criminal experimentation on involuntary human subjects were

not limited to approving funds for research by the SS. Research assignments were commissioned by it, involving experiments on concentration camp inmates. Thus, in the Autumn of 1943, Rascher received an assignment from the Reich Research Council to conduct dry freezing experiments, while Hirt was carrying out the mustard gas experiments in Natzweiler with its support. (NO-690, Pros. Ex. 120, R. 371, et seq; Doc. NO-432, Pros. Ex. 119, R. 369). An interest was also shown in the blood coagulant developed by Rascher in Dachau, during experiments with which concentration camp inmates were shot. (NO-613, Pros. Ex. 243, R. 962). Blone personally made these assignments to Rascher and Hirt. And, together with the Luftwaffe, the Reich Research Council sponsored typhus, yellow fever, and jaundice experiments by Heagen on inmates of the Natzweiler Concentration Camp. (NO-137, Pros. Ex. 189, R. 737). Such were the activities of the Reich Research Council. As an important member of this group or organization (Reich Research Council) connected with the commission of such crimes, and indeed as a personal participant in them, Blone must be found guilty under the provisions of Section 2 of Article II of Control Council Law No. 10.

These then were the positions of responsibility of the defendant Blone: Gruppenfuhrer (Major General) in the SA; Deputy Reich Health Leader; Deputy Leader of the Reich Chamber of Physicians and the National Socialist Physicians' Association; Representative for the Development of Medical Study; Plenipotentiary for Cancer Research in the Reich Research Council; and Chief of Research on Bacteriological Warfare.

II. PHYSICAL PARTICIPATION IN CRIMINAL ACTIVITIES

A. Murder and Mistreatment of Polish Nationals (Indictment, P.R. 8)

By 1941 it was the accepted policy of the Third Reich to exterminate the Jewish population of Germany and the occupied countries. (Judgment, I.I.T., R. 16920 et seq). In pursuance of this policy the Reich Governor of the Warthegau, Greiser, obtained permission from Hitler to exterminate the Jewish population in this province. In a letter of 1 May 1942, he informed Hitler that the "special treatment" of about 100,000 Jews would be completed within 2 - 3 months. He stated that as soon as this task was completed the "existing" and efficient special commands could be used for the extermination of approximately 35,000 Polish nationals who suffered from open tuberculosis. These Poles allegedly were a danger to the German officials and their families because they were a possible source of tubercular infection. Greiser went on to say:

"The ever increasing risks were also recognized and appreciated by the Deputy of the Reich Leader for Public Health (Reichsgesundheitsfuhrer) Conrad Professor Dr. BLOME as well as by the Leader of your X-ray battalion SS Standartenfuhrer Prof. Dr. HOHLFELDER.

"Though in Germany proper it is not possible to take appropriate drastic steps against this public plague, I think I could take responsibility for my suggestion to have cases of open TB exterminated among the Polish race here in the Warthegau. Of course only a Pole should be handed over to such an action, who is not only suffering from open tuberculosis, but whose incurability is proved and certified by a public health officer.

"Considering the urgency of this project I ask for your approval in principle as soon as possible. This would enable us to make the preparations with all necessary precautions

now to get the action against the Poles suffering from open tuberculosis under way, while the action against the Jews is in its closing stages." (NO-246, Pros. Ex. 196, R. 474-5).

In a letter of 27 June 1942 Himmler gave consent in principle to this plan and instructed Greiser to discuss the individual measures in detail with the Security Police first in order to assure an inconspicuous accomplishment of the task. (NO-244, Pros. Ex. 201, R. 752). On 21 November 1942 Greiser informed Himmler that the examinations which were to be carried out in order to separate the curable and incurable would be executed by Prof. Hohlfelder and his X-ray battalion. He estimated that the first utilization of the method would be in approximately six months. He further stated:

"In this stage of the proceedings Prof. Dr. Blume, in his capacity as Deputy Chief of the Public Health Office (Hauptamt fuer Volksgesundheit) of the NSDAP is raising some objections as to its execution, as he states in a letter of 18 November. These objections are expressed only now although Dr. Blume and Dr. Hohlfelder and myself have spent months of preliminary work on examination, clarification and straightening out the whole procedure.

"I enclose a copy of Blume's letter of 18 November for your information." (NO-249, Pros. Ex. 202, R. 752-3).

In this letter Blume stated that among the Polish population of the province, at least 35,000 persons were suffering from open tuberculosis, and besides this number, about 120,000 consumptives were in need of treatment. This constituted a enormous danger to the German settlers in all parts of the province. In order to make further German immigration possible, counter measures were to be taken soon. Blume then outlined the three ways for the

practical elimination of the danger of infection:

1. Special treatment (Sonderbehandlung) of the seriously ill persons.
2. Most rigorous isolation of the seriously ill persons.
3. Creation of a reservation for all TB-patients."

As to the first proposal he stated:

"The approximately 35,000 Poles who are incurable and infectious will be "specially treated" (sonderbehandelt). All other Polish consumptives will be subjected to an appropriate cure in order to save them for work and to avoid their causing contagion."

Blone pointed out that one of the practical difficulties of outright extermination of all TB Poles was that it might provide excellent propaganda material for the enemies of Germany, especially with regard to the strongly Catholic feelings of the Italian nation and "all the physicians of the world". He therefore considered it necessary that Hitler himself personally decide on this step. Should Hitler consider this radical solution as unsuitable, preparations for the execution of the plan as outlined in points 2 and 3 should be made. The exclusive settlement of all TB Poles, irrespective of whether they were curable or incurable, would remove the danger of infection for the German settlers. These Poles should be used for labor. Not only the TB Poles of the Warthegau, but also in Danzig-West Prussia, of the Administrative District of Zichenau, and of the Province of Upper Silesia, should be isolated in the same settlement. He stated:

"Another solution to be taken into consideration would be a strict isolation of all the infectious and incurable consumptives, without exception, in nursing establishments. This solution would lead to the comparatively rapid death of the

sick. With the necessary addition of Polish doctors and nursing personnel, the character of the pure death camp would be somewhat mitigated."

Finally Blone advocated as the most practicable solution the creation of a reservation similar to the reservation for lepers. Within the reservation the strict isolation of the strongly contagious could easily be achieved. In this way the danger of infection would be removed and the problem of the German consumptives in the province would be overcome. (NO-250, Pres. Ex. 203, R. 753-8). Blone admitted that the expression "special treatment" which he used in the letter meant the killing of the TB Poles. (Blone, R. 4791).

Hitler approved Blone's plan to create a reservation for TB Poles, incurable and curable alike, in a letter to Greiser dated 3 December 1942. It would be possible to exploit this action for propaganda purposes, whereas on the other hand, outright extermination of those afflicted with open tuberculosis would take too long as the X-ray examinations of the Polish population would require at least six months. (NO-251, Pres. Ex. 204, R. 758).

That at least a part of the tubercular Poles was exterminated, while the others were taken to death camps where they were left to die, is proved by the affidavit of the defendant Rudolf Brandt. (NO-441, Pres. Ex. 205, R. 760). Brandt tried to explain, not to say repudiate, this affidavit, by testifying that he made the statements on the basis of documents shown to him in pre-trial interrogations. He stressed the point, however, that he insisted the wording of one sentence be changed. This sentence originally read: "As a result of the suggestions made by

Blome and Greiser, 8 - 10,000 Poles were exterminated". He changed the expression "8 - 10,000" to "numerous". (R. Brandt, R. 4891, 4953). This proves in itself that Brandt did not make his statement in exclusive reliance on the contents of the documents shown to him in pre-trial interrogations (R. Brandt, R. 4891), but also on the basis of the knowledge he obtained as collaborator of Himmler. The documents do not show the execution of "numerous" Poles. Moreover, Brandt states in these documents that Dr. Blome visited Himmler from time to time and supported Greiser's suggestions. There is no document in evidence or in the possession of the Prosecution which would give the basis for this statement. It is therefore clear that Brandt's statements are founded upon knowledge which he obtained from Himmler.

Without a doubt, Rudolf Brandt is as well advised on the crimes which are the subject of this trial as any man in Germany. There is no reason whatever for refusing to give full weight to the pre-trial statements of Brandt. There has been no proof that these statements were obtained by fraud or duress. Brandt's testimony before the Tribunal can be summed up in one sentence: "I remember nothing". Aside from a description of Himmler's personality, he contented himself with giving answers to leading questions by his attorney which were calculated to reveal him as a disembodied stenographic automaton - something in the nature of a proficient half-wit. Surely his pre-trial affidavits are entitled to more weight than the blatant nonsense which was his testimony.

Blome denied that he ever planned or suggested that

Poles suffering from open tuberculosis should be exterminated and that the remainder should be put in reservations and left there to die (Blone, R. 4578, 4790-1), but he is contradicted by the proof of his own asking.

B. Euthanasia Program (Indictment, P. r. 9)

The Prosecution relies primarily on the position of the defendant Blone in connection with the charge of responsibility for the execution of the euthanasia program.

Conti played an outstanding part in the planning and execution of this program. (Karl Brandt, R. 2399-2400; Bruck, R. 7552-4; NO-253, supra). Blone contended that Conti was connected with the euthanasia program only in his capacity as Secretary of State in the Ministry of the Interior and that he did not deputize for Conti in the Ministry of Interior. He testified further that the Reich Chamber of Physicians, of which he was deputy leader under Conti, had no connection with the euthanasia program.

It is proved from Blone's own testimony that such was not the case. The Reich Chamber of Physicians and the Main Office for Public Health received complaints from the German public in 1940 and 1941. (Blone, R. 4581). When these complaints came to Blone's knowledge, he was of the opinion that this was a matter of concern for the Reich Chamber of Physicians, and requested Conti's intervention. He testified in this respect:

"I said something to this effect to Conti, and I requested that we via the Reich physicians leaders should take some interest in this matter. In the last analysis the thing would become the responsibility of the doctors, and it would be said that the doctors were responsible for it, and I did not want that to happen." (Blone, R. 4582).

That the euthanasia program affected the authority of the Reich Chamber of Physicians is further proved by the fact that in 1941 Conti invited the defendant Karl Brandt to lecture before the leaders of this organization on the subject of euthanasia. The lecture was actually delivered by the defendant Bruck in the House of Doctors in Munich. Blome admitted having been present at the lecture. (Blome, P. 458b). He stated in direct examination:

"After the meeting in Munich I again suggested to Dr. Conti that we of the Chamber of Physicians should try to intervene". (Blome, P. 4587, emphasis supplied).

Nothing could be clearer than the proposition that the euthanasia program in Germany would have been impossible without the cooperation of such Nazi Party medical leaders as Blome. The euthanasia program itself was supported in great measure by party agencies. Indeed, a large part of the administrative machinery for the program was set up under Buehler, Chief of the Chancellery of the Fuehrer of the NSDAP. This was Nazi Party agency and not a State agency. Buehler, co-director of the program with Brandt, and Bruck were Party not State functionaries. Certainly the Reich Ministry of Interior, a State agency, played an important part in euthanasia, but the evidence proves that Nazi Party agencies played an even more essential role. The whole Nazi Leadership Corps, of which the Chancellery of the Fuehrer of the NSDAP was a part, was a necessary party to the crime if for no other reason than to keep down public criticism. Indeed, they were much more active than that. The review of the proceeding U.S. v. Klein et al. shows that Gauleiter Springer exercised considerable influence over

euthanasia was executed in Hadamar. (NO-1116, Pres. Ex. 415, R. 1781). Gauleiters were Party functionaries, not State. Blone's close official connection with the Gauleiters can be seen from his criminal work with Gauleiter Greiser in connection with the extermination of tubercular Poles. It is utterly impossible that the euthanasia program could have been carried out by the Party, without the active assistance and cooperation of Blone, Deputy Reichsleiter of the Office for Public Health of the NSDAP. As such he was an important member of the Leadership Corps of the Party which was declared a criminal organization by the International Military Tribunal. (Trial of the Major War Criminals, pp. 257-262). One might as well say that euthanasia could be systematically practiced in asylums of the United States, pursuant to an edict of the President, without the knowledge and support of the responsible officials of the American Medical Association or the Department of Public Health. Under the provisions of Section 2 of Article II of Control Council Law No. 10, Blone is clearly guilty of having been a member of a group or organization (Nazi Leadership Corps) connected with the execution of the euthanasia program. That Blone was an important and influential member of this group can be seen from his early and consistent support of the Nazi Party and its various doctrines. (Blone, P. 4667-4701).

Moreover, the contention made by Blone that Conti did not act in his capacity as Reich Health Leader in connection with the euthanasia program is not supported by the evidence. Lammers, who was Chief of the Reich Chancellery and the legal authority in Nazi Germany as legal constitu-

tional questions (Lammers, R. 2682), used to send reports concerning the euthanasia program, which reached his office, to the Reich Health Leader and not to the Secretary of State. This fact, proved by two letters which Lammers sent to the Minister of Justice, Guertner (621-PS, Pres. Ex. 395, R. 1681; 620-PS, Pres. Ex. 396, R. 1681), indicates clearly that the differentiation of the positions of Conti, which Blone tried to establish for the sake of his defense, did not exist.

Blone was the Deputy Leader of the Reich Chamber of Physicians, Deputy Reich Health Leader, and Deputy Leader of the National Socialist Physicians' Association from the beginning to the end of the criminal euthanasia program. He knew of the program and realized that it was illegal. (Blone, R. 4583). Not only did he take no steps to stop the program, but his own writings show that he supported it. In his book "Doctor in Battle", which was published in October 1941 when the euthanasia program had been in progress for two years, he said:

"We considered it to be nonsensical that, for instance, insane people who threatened their own life as well as others, or idiots of a high degree who perhaps cannot even keep themselves clean or eat by themselves, were brought up and kept alive with great effort and expense. In free nature these creatures would not be able to exist and would be exterminated according to the Divine Law. We also did not understand that persons inferior in character and spirit, asocial creatures, who had murdered were, it is true, condemned to death, but were then pardoned in principle and kept alive in penitentiaries at the expense of the public; but also in quite different cases where it is not a question of putting an end to inferior life, we wondered whether the physician should not be given the legal possibility to end an unhappy life

prematurely. We are thinking of seriously suffering, incurable sick persons, who until their death had to expect only enormous mental and physical suffering and who themselves asked the physician to free them from their suffering." (Blone, Ex. 1, R. 4764).

The evidence shows, as a minimum, that Blone was connected with plans and enterprises involving, took a consenting part in, and was a member of an organization or group connected with the execution of the euthanasia program.

For a description of the criminality of the euthanasia program, reference is made to the Prosecution's brief against the defendant Karl Brandt.

C. Medical Experiments

1. Bacteriological Warfare Experiments

In 1943 bacteriological warfare became a matter of considerable interest in military circles in Germany. In May of that year, Blone was put in charge of research in this field by Reichsmarschall Goering. (Blone, R. 4604; NO-675, Pros. Ex. 37, R. 142). Blone carried out this assignment under the cover of his position as Plenipotentiary for Cancer Research in the Reich Research Council. (Blone, R. 4594).

In a secret meeting in July 1943 called by the High Command of the Wehrmacht, it was stated that an institute at Posen was to be created at which bacterial cultures were to be produced on a large scale and scientific experiments were to be carried out to test the possibilities of their use. This institute was under the control of Blone. (Schreiber, Blone Doc. 7, Blone Ex. 11, R. 4621).

A special committee under the name "Blitz-Blöiter" was

founded to investigate matters concerning bacteriological warfare. Blone was a member of this committee. At a session on 24 September 1943, experiments in the field of human bacteriology were discussed. Since it was not known under what conditions inhaled aerosols or dispersed droplets of certain pathogenic germs caused disease in man, Blone advocated experiments on human beings. (NO-1308, Pres. Ex. 325, R. 1484). Again in a meeting on 23 February 1944, Blone pointed out the necessity for experiments on human beings, and reported that a new bacteriological weapon was to be studied and tested. Field Marshall Keitel had given the permission to build the institute in Posen under his control, and Himmler and the defendant Karl Brandt assured him of their support. Blone also stated that a plague might constitute a serious hazard, and accordingly it was necessary to examine the plague vaccine in experiments on human beings. The effect of maximum doses of certain poisons was also to be tested by experiments on human beings. (NO-1309, Pres. Ex. 326, R. 1487).

In order to carry out his task, Blone requested a compilation of the most important scientific material concerning bacteriological warfare from the defendant Mrurowsky. Mrurowsky prepared a memorandum on this subject and Blone received a copy. (NO-114, Pres. Ex. 324, R. 1481; Blone, R. 1620).

Schreiber testified, before the International Military Tribunal, that in March 1945 Blone visited him in the Military Medical Academy in Berlin. He had come from Posen and was very excited. He said he had been forced to flee his institute by the advance of the Red Army. He was

worried that the arrangements for human experiments in the institute would be recognized as such by the Russians. He had attempted to have it destroyed but without success. Schreiber stated that he was unfortunately forced to give Blume a place to continue his work at Sachsenburg. (Blume Doc. 7, Blume Ex. 11, R. 4621). Schreiber further testified that: "As a result of all these delays the whole affair never went into effect." This statement has reference to the proposed use of bacteriological warfare by Germany, and not to the medical experiments' carried out by Blume.

In its Judgment, the International Military Tribunal made a finding of fact, upon which the Prosecution relies, to the effect that Soviet prisoners of war were used in medical experiments concerning bacteriological warfare, which were often then not proved fatal. (I.M.T., Case No. 1, R. 16891). That Blume actually carried out the proposed experiments with poison on human beings is proved by a teletype from Sievers to Rudolf Brandt dated August 18, 1944. (NO-641, Pres. Ex. 327, R. 1493). This communication states that Blume asked to report to Himmler concerning the poison experiments in fulfillment of the report of 21 July.

Blume would have the Tribunal believe that he never carried out any experiments on human beings. Although he talked of it constantly - with volunteers in mind - he never quite got around to having them performed. He testified that Himmler asked him to carry out experiments on human beings to test a typhus vaccine in the middle of 1943. He was told of the typhus vaccine experiments in Buchenwald and was offered a place and faci-

lities in a concentration camp. This he said he rejected because of his "spiritual repudiation". Such a statement cannot be believed coming from a man who collaborated so closely with Rascher (see infra). Blone said he planned to carry out such experiments at his institute in Nesselstett near Posen. (Blone, R. 4610-1). Blone offered Rascher the opportunity of working with him in Nesselstett. (3546-PS, Pres. Ex. 123, R. 972, entry for 20 April).

The defendant Sievers, in his affidavit, stated that Blone conferred with Rascher on many occasions, received reports on his work in Dachau, and visited him there. He stated further that:

"At the end of 1943 I met Blone again in Himmler's presence. I can recall that during this conference Blone asked Himmler that Rascher be assigned to him for research work in his institute at Nesselstett. At this conference it was decided that Rascher should work in close cooperation with Blone. Rascher was also to assist Blone in the field of biological research." (NO-473, Pres. Ex. 237, R. 951).

Blone could offer no satisfactory explanation of how it was he never tested the plague vaccine on human beings as ordered, although he worked on bacteriological warfare problems for over two years. Indeed, from his testimony it would have to be concluded that he did nothing in connection with bacteriological warfare.

While it is of no material significance, there is proof in the record that the research for bacteriological warfare was by no means confined to defensive measures. At the conference of the Blitzbleiter committee on 21 September 1943, one of the participants, Ministerialdirigent Schumann, declared:

BLOME

"We cannot play the part of indifferent spectators; we must also prepare the mass utilization of bacterial materials. Especially America would have to be attacked simultaneously with different human and animal disease agents as well as with plant parasites. The Fuehrer was to be won to the plan. For this purpose the scientists were to submit a brief, but complete, paper on enemy preparations and on sabotage activity of the enemy with bacteria and poisons. Furthermore, they were to indicate the methods of introduction, and the requisite number of personnel, laboratories, instruments, airplanes, submarines, etc., for the preparation and the attack." (NO-1308, supra).

2. Polygal Experiments.

In order to test the effectiveness of a blood coagulant "Polygal", Rascher carried out experiments in which inmates of the Dachau Concentration Camp were shot. Rascher's uncle, in his affidavit, describes the murderous experiments which were carried out by his nephew. In August 1943, he visited Rascher in Dachau and, while Rascher was away from his office, he saw a report which he describes as follows:

"It referred to a report about the shooting (execution) of four people for the purpose of experimenting with the hemostatic preparation "Polygal 10." As far as I remember they were a Russian Commissar and a Grotin, I do not remember who the other two were. The Russian was shot in the right shoulder from above by an SS man who stood in a chair. The bullet emerged near the spleen. It was described how the Russian twitched (convulsively), then sat down on a chair and died after about 20 minutes. In the dissection protocol the rupture of the pulmonary vessels and the aorta was described. It was further described that the ruptures were tamponed by hard blood-clots. That could have been the only explanation for the comparatively long span of life after the shot." (NO-1424, Pros. Ex. 462, R. 4773-4).

This evidence is corroborated by the testimony of the witness Stoehr (R. 587) and the affidavit of Pohl (NO-065) Pros. Ex. 127, R. 410). Even the defendant Gebhardt admitted, during his testimony, that he knew that Rascher had carried out blood coagulation experiments on concentration camp inmates who had been shot for the purpose. (Gebhardt, R. 4240-1).

The evidence proves that Blome collaborated with Rascher in the Polygal research. This collaboration began at least as early as the middle of 1943 in connection with cancer research. (NO-473, Pros. Ex. 237, R. ; see also NO-538, Pros. Ex. 122, R. , entries for 18 February, 7 April, 14 April, and 26 June 1943). The

defendant Sievers stated in his affidavit that:

"Blome also had full knowledge of the blood coagulation experiments at Dachau. He received reports from Rascher and should have a complete knowledge of these matters." (NO-473, supra). Blome admitted that Rascher had been commissioned by Himmler to work with him in the field of blood coagulation. (R, 4642). One of the collaborators of Rascher in the Polygal research was an inmate of the Dachau Concentration Camp by the name of Robert Feix. By letter of 15 September 1943, Rascher requested Sievers to approach Blome, so that the latter might arrange for the release of Feix and for his reinstatement in his former category as half-Aryan. Rascher stated in his letter that "Blome has given me great hopes in this respect." (NO-611, Pros. Ex. 239, R. 955). This proves that Blome was already collaborating with Rascher on Polygal research in the summer of 1943. Obviously, Blome would not have put himself out to assist in this work without knowing precisely what had been done to test Polygal.

In the latter part of 1943, Rascher and Dr. Haferkamp wrote a paper on the Polygal. This paper draws a clear distinction between experiments on human beings to test the effect of Polygal and clinical tests. It states that: "Before we tried the clinical use of the drug and had it probed, it was tested on human beings by thorough experiments as to its influence on the period of clotting and bleeding." Curves were included to show the reaction of Polygal on clotting and bleeding. Later on the paper discusses clinical observations during operations. (NO-438, Pros. Ex. 240, R. 956). The experiments

mentioned in this paper obviously are the ones during which inmates were shot. They were not so described in the paper because it was written for publication. Blome testified that the only experiments he knew about were ones where one cubic centimeter of blood was withdrawn to see how fast it would coagulate in a test tube. (R. 4643). Such tests cannot be described as experiments. It is impossible to conceive of Rascher's testing a blood coagulant to be used on soldiers wounded on the battlefield in such a manner. And this was better known to Blome at the time than it is now to the Tribunal. He knew that Rascher had conducted the freezing experiments with resultant loss of life. He had been informed about the Buchenwald typhus experiments. (Blome, R. 4640). Moreover, this devious explanation of Blome does not cover experiments to test the effect of Polygal on bleeding; to test blood in a test tube covers only coagulation reaction, not bleeding reaction. So he had to add to the implausible by saying that Rascher once told him that he or another doctor had rubbed the upper thigh of a person under anaesthesia until it became bloody and then tested the efficacy of Polygal. But, Blome said, "I didn't take this statement of his seriously." (R. 4635). The thing which cannot be taken seriously is Blome's display of ignorance about experiments in which the documents prove he had a direct personal interest.

Blome approved the publication of the paper mentioned above in the Munich Medical Weekly (Muenchener Medizinische Wochenschrift). (Blome, R. 4639; NO-616, Pros. Ex. 244, R. 964). Both Grawitz and Pohl raised objections to the publication of the article because they had not been consulted and because Dachau 3 K and human

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experimental subjects were mentioned. (NO-614, Pros. Ex. 245, R. 964; NO-615, Pros. Ex. 246, R. 966). Both these men knew the murderous experiments carried out by Rascher to test Polygal. Gebhardt knew. Yet Blome asks the Tribunal to assume that he was too naive to have known; that he didn't even believe Rascher when he was told that he had deliberately rubbed the hide off of an inmate's leg to test Polygal.

On 23 February 1944 Rascher received a research assignment on Polygal from the Reich Research Council. (NO-656, Pros. Ex. 247, R. 967). Blome admitted that he issued this assignment. (Blome, R. 4634). Sievers' Diary reveals that on 1 February 1944, Polygal production by Rascher was listed as a war economy industry by the Reich Research Council. On 22 February Sievers had a conference with Rascher in which supply questions for the production of this drug, experiments of Blome, and the Polygal report for the defendant Gebhardt were discussed. On 24 February Sievers had a telephone conversation with Blome in which Blome informed him that Himmler had issued an order concerning Blome's work in Dachau in collaboration with Rascher. (3546-PS, Pros. Ex. 123, R. 972). Blome admitted that Himmler requested him to cooperate with Rascher on Polygal research. (R.4510). When Ploetner took over Rascher's work on 31 March, (Ibid, R. 973), Blome continued his interest in Polygal as shown by a telephone conversation with Sievers on this matter on 24 July. (Ibid, R. 976).

3. Lost Gas Experiments. (Indictment, Par. 6 (d)).

From the winter of 1942 through the summer of 1944, experiments on concentration camp inmates were conducted for the purpose of determining the most effective

treatment of wounds caused by Lost (mustard) gas.

These experiments were, for the most part, performed in the Natzweiler Concentration Camp under the direction of Dr. Hirt of the University of Strassbourg. For a detailed description of these experiments, reference may be made to the prosecution's brief against Sievers.

Hirt's gas experiments in Natzweiler began in November 1942. (NO-098, Pros. Ex. 263, R. 1029). They continued through the summer of 1944. (Holl, R. 1058). During this period approximately 220 inmates of Russian, Polish, Czech, and German nationality were experimented on with gas, of whom about 50 died. They did not volunteer. (Holl, R. 1052, 1057).

In October 1943, the defendant Blome, in his capacity as Plenipotentiary for Cancer Research in the Reich Research Council, issued a research assignment to Hirt in support of his gas experiments. This is proved by the file index card on Blome's research assignments in the Reich Research Council, where the assignment to Hirt by Blome is listed under SS priority number 0329. The assignment was registered as No. 1881/15, (NO-690, Pros. Ex. 120, R. 373). Blome admitted that registrations carrying the suffix number 15 indicated assignments by him. (R. 4531; Blome Dec. 21, Blome Ex. 5, R. 4535). The date of the issuance of this research assignment to Hirt by Blome can be established with accuracy by reference to a file memorandum by Sievers on the freezing assignment issued by Blome to Wischer on 4 October 1943. This freezing experiment carried the SS priority number 0328. Since the assignment to Hirt had the SS priority number 0329, it is obvious that the assignments were issued on or about the

same time. (NO-656, Pros. Ex. 247, R. 966). The defense apparently has no objection to fixing the date in this manner. (Blome, R. 4540-1).

Blome, while denying that he issued any research assignments to Hirt concerning gas experiments, offered no explanation whatever to the notations on his file card in the Reich Research Council. He testified that it must have been a mistake. He attempted to shift responsibility for the assignment to Professor Sauerbruch who was in charge of general medicine in the Reich Research Council and whose assignments were issued under the registration number 10 as compared to number 15 for Blome. The file card of Sauerbruch was introduced which showed that he had issued an assignment on gas research to Hirt under the SS priority number 0323 and registration number 548/10. (Blome Doc. 19, Blome Ex. 3, R. 4531). The difference in the priority and registration numbers precludes any possibility of mistake.

Blome would have the Tribunal believe that both the gas assignment to Hirt and the freezing assignment to Rascher, which appear on his file card under priority numbers 0328 and 0329 respectively, really belonged to Sauerbruch's field and were not assignments issued by him. (Blome, 4529, et. seq.). This explanation makes no sense whatever. It is quite apparent from the records that both Blome and Sauerbruch issued assignments to Hirt. The respective assignments carry not only different priority numbers but also different registration numbers. Contrary to Blome's statement that gas research belonged more naturally to Sauerbruch's field, it is quite obvious that it was a matter in which Blome had a

very direct interest in view of his work concerning bacteriological warfare. The Tribunal will recall that that work was carried out under the cover of his position as Plenipotentiary for Cancer Research. Moreover, the proof shows that Blome, contrary to Sauerbruch, had connections with both Rascher and Hirt.

Blome's participation in and knowledge of Hirt's experiments with Lost gas is further proved by the entries in the Sievers Diary for 2 and 28 February, 3, 4, and 8 March 1944. On 2 February Sievers got in touch with the Reich Research Council to determine who had been commissioned by them to do research work on Lost so that those scientists could be gathered together for a discussion. On 28 February the discussion was had at the Reich Research Council and was participated in by Blome, Rascher, Thiessen, and Sievers. Lost research was discussed. A similar conference took place on 3 March 1944. On 4 March Himmler ordered a meeting between Hirt and Rascher, among others, to be held on 8 March, at which time Hirt gave a report on his Lost research. (3546-PS, Pros. Ex. 123, R. 392).

The report by Hirt on his gas experiments was written in 1944 and speaks of heavy, medium, and light wounds caused by Lost. It shows on its face that experiments were performed on human beings. (NO-029, Pros. Ex. 268, R. 1035). Certainly the man who was supporting the work received a copy of this report.

4. Freezing Experiments (Indictment, Par. 6 (b)).

For a detailed description of the freezing experiments, reference may be made to the Prosecution's brief against Sievers.

The proof shows that Blome was in touch with

Rascher at least as early as the Spring of 1943. On 11 April 1943, Rascher sent a report to Himmler concerning freezing experiments on human beings exposed to the open air. In the same letter he stated that he hoped to submit to Himmler his habilitation thesis early in May and that Professor Pfannenstiel at Marburg was prepared to accept it as a secret thesis of habilitation so that Rascher could become an academic lecturer. (NO-240, Pres. Ex. 112, R. 354). On 17 May 1943, Rascher submitted a memorandum on his medical training and specifically mentioned the high altitude and freezing experiments. He stated that further freezing experiments were necessary and concluded by saying that he intended, as agreed upon, to return to the University Institute for Aviation Medicine and Hygiene (Prof. Dr. Pfannenstiel, Marburg) for further scientific training. A research schedule had already been worked out with Pfannenstiel. (NO-230, Pres. Ex. 115, R. 356). That it was the defendant Blome who brought Rascher and Pfannenstiel together is proved by Sievers' letter to Brandt dated 27 September 1943. This was in reply to a letter of Brandt of 12 August 1943 concerning the appointment of Rascher as a lecturer. Sievers stated that he had already had a conference with Blome, Mentzel and Rascher on this subject and that Blome had talked with Pfannenstiel at Marburg. (NO-229, Pres. Ex. 118, R. 367).

It is apparent from these documents that Blome was supporting Rascher at least as early as April 1943 when the dry freezing experiments were still in progress. Rascher had already contacted Pfannenstiel through Blome. Blome maintained that this early contact with Pfannenstiel by Rascher was unknown to him and that

it was pure coincidence that he also hit upon Pfannenstiel. (R. 4516). Blome's testimony on this collaboration is nonsensical. He conceded that he made arrangements for Rascher to obtain a certification as a specialist, which was a prerequisite for habilitation, and that the suggestion to approach Pfannenstiel originated from him. (R. 4312-3). But, he said, Rascher told him he wanted to be habilitated as a result of his work on Polygal. He received the habilitation thesis, but contended he did not read it. (R. 4514). It is difficult to understand how Blome can maintain, on the one hand, that he supported Rascher in his Polygal work and was interested in it yet, on the other hand, he did not read a scientific paper on that subject by Rascher. Blome's testimony, of course, is explained by the fact that the habilitation thesis dealt not with Polygal, but with the freezing experiments. (NO-240, NO-230, supra).

Having learned of Rascher's freezing experiments, Blome was interested enough in the matter to issue to Rascher in October 1943 a research assignment. On the same file card of Blome, as a member of the Reich Research Council, which lists the research assignment to Hirt, appears the assignment to Rascher for rewarming after general freezing of the human body, healing after partial freezing, and adjustment of the human body to low temperatures. No such detailed assignment could have been issued except by a man thoroughly familiar with Rascher's work. The registration number 1879/15 proves that Blome issued this assignment. (See Lost Gas Experiments, supra). Moreover, a note on the card says that the assignments listed on the file card were worked on by Blome. (NO-690, Pres. Ex. 120, R. 371; NO-656, Pres. Ex. 247, R. 966). Here again, Blome testified that this

was an unfortunate mistake, that Sauerbruch was really Rascher's supporter. But the evidence proves that it was Blome, not Sauerbruch, who collaborated with Rascher and knew of his previous experiments. Blome admitted that Rascher informed him about the freezing experiments and that a fatality had occurred. (R. 4508). His collaboration with Rascher was ordered by Himmler and was so close that he intended to employ him in his institute at Nesselstedt.

While denying any connection with the freezing experiments, Blome proceeded to testify that no freezing experiments occurred after October 1943. (R. 4541). The Sievers' Diary for the last half of 1943 is not available to give a definitive answer to this question. But it is quite clear from the diary for 1944 that preparations were certainly made. The entries for 6 and 21 January prove this. (3846-P3, Pros. Ex. 123, R. 382; see also the entry for 22 March). Be that as it may, Blome entered the picture when the dry freezing experiments were still in progress during the first part of 1943. In any event, his activities constitute him an accessory after the fact. Moreover, he was connected with plans and enterprises involving, took a consenting part in, and was a member of a group or organization connected with the commission of the freezing experiments.

5. Malaria Experiments (Indictment, Par. 6 (C)).

The Prosecution relies primarily on the position of the defendant Blome in connection with the charge of responsibility for the malaria experiments, which are described in detail in the Prosecution's brief against the defendant Rose.

The malaria experiments were carried out by Professor

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Claus Schilling from 1942 until the end of the war in the Dachau Concentration Camp on a large scale. Schilling was a civilian and consequently the Reich Health Leader, Conti, made the necessary arrangements for him which enabled him to carry out the experiments in Dachau. (NO-956, Pres. Ex. 126, R. 386). All physicians who were not serving in the armed forces or in the SS were subordinate to the Reich Chamber of Physicians in which Blume was Conti's deputy (supra). It is impossible that Blume, who, according to his own admission, "was fully aware that experiments on human beings were conducted in concentration camps" (NO-471, Pres. Ex. 238, R. 952) did not know of experiments which were in progress for over three years, in which approximately 1200 inmates were used as experimental subjects, and which were promoted by his immediate superior and carried out by a member of an organization of which he was Manager and second highest authority.

Moreover, Blume was connected with Dr. Ploetner (see Polygal experiments, supra). Ploetner was an assistant of Schilling, and worked with him on the malaria experiments (3546-PS, supra entries of 30 January, 22 February, 31 May, 1 June and 24 August, 1944). Blume was several times in the Dachau Concentration Camp, where the experiments were conducted (Blume, R. 4525; NO-473, Pres. Ex. 237, R. 952). He discussed experiments on human beings with the defendant Sievers, who was also very often in Dachau himself. (Blume, R. 4500). In view of these facts, there can be no doubt that Blume was informed of Schilling's experiments and the collaboration of Ploetner and Sievers with him.

Blume also was well aware of other experiments

which were carried out in concentration camps. In his affidavit he admitted that he was fully aware that experiments on human beings were conducted in concentration camps. (NO-471, Pres. Ex. 238, R. 952). Himmler himself told him of the experiments to test typhus vaccines in the Buchenwald Concentration Camp. Rascher informed Blome about his high altitude experiments (Blome, R.4508). Sievers discussed with him questions concerning various special research and experimental matters. (3546-PS, supra, entry of 11 October, 1944).

III Conclusion

Blome was Deputy Reich Health Leader and Deputy Leader of the Reich Chamber of Physicians and the National Socialist Physicians' Association. He was a close collaborator of Conti, who was in direct charge of the civilian health services. By virtue of these positions, Blome held considerable power and influence. He knew that concentration camp inmates were being systematically used in criminal medical experiments.

As the responsible head of bacteriological warfare, Blome personally suggested and carried out criminal experiments in that field. In the same connection he had prisoners tested on human subjects and reported to Himmler on this matter.

Blome had full knowledge of the murderous freezing experiments by Rascher, supported his efforts to gain admission as an academic lecturer on that subject, and, as a member of the Reich Research Council, personally issued a research assignment to Rascher for further freezing experiments. He collaborated with Rascher in the Polygal experiments, during which inmates were shot and killed. He also issued a research assignment to

Rascher in support of these experiments.

Blome had knowledge of Hirt's gas experiments in Natzweiler and furthered his work by issuing an assignment from the Reich Research Council.

As Deputy Reich Health Leader, Blome worked with the murderer Greiser, Gauleiter of Warthegan, who among other things assisted in the extermination of Jews in that area of Poland. Blome, together with Greiser, supported the plan to exterminate thousands of tubercular Poles who were considered a health menace to German settlers. Pursuant to this plan, many Polish nationals were murdered and others were placed in isolation camps and left to die without medical care.

As a prominent member of the criminal Nazi Leadership Corps, Blome was a member of a group connected with the execution of the euthanasia program. He knew that this program was illegal, yet he actively supported it.

The Prosecution submits that the evidence proves that Blome was a principal in, accessory to, ordered, abetted, took a consenting part in, was connected with plans and enterprises involving, and was a member of a group or organization connected with medical experimentation on human subjects without their consent, the extermination of tubercular Poles, and the execution of the euthanasia program, in the course of which murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts were committed, and that his guilt has been established under Counts I, II, and III of the Indictment.

M I L I T A R Y T R I B U N A L N O . I

CASE NO. 1

CLOSING BRIEF FOR
THE UNITED STATES OF AMERICA
AGAINST
VICTOR PRACK

Nurnberg,
16 June 1947

J. M. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

for:

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for W r Crimes.



INTRODUCTION

It is alleged, in essence, under Count I of the Indictment that Viktor Brack conspired and agreed with others, pursuant to a common design, to perform medical experiments on involuntary human subjects; under Counts II and III (War Crimes and Crimes Against Humanity, respectively), that he was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experimentation on involuntary human subjects and the execution of the so-called "euthanasia" program; under Count IV, that he was a member, after 1 September 1939, of the SS, an organization declared to be criminal by the International Military Tribunal.

The acts recognized as War Crimes and Crimes Against Humanity are set forth in Paragraphs 1 (b) and (c) of Article II of Control Council Law No. 10. Membership in an organization declared criminal by the International Military Tribunal is defined as a crime in Paragraph 1 (d) of the same Article. The criteria of criminality are set forth in Paragraph 2 of Article II of Control Council Law No. 10. The defendant Brack is particularly charged with having participated in sterilization experiments, as set forth in Paragraph 6 (I) of the Indictment and with the execution of the so-called "euthanasia" program, as set forth in Paragraph 9.

I. POSITIONS OF RESPONSIBILITY

The defendant Brack had positions of very considerable power and responsibility in the service of the Nazi party and the SS. He was one of the earliest followers of Hitler. As early as 1923, he joined an artillery unit of the SA Regiment in Munich. In 1929 he became a member of the NSDAP and of the SS and received the "Death Head

Ring", an SS decoration, in 1934. (NO-820, Pros. Ex. 34, R. 138). His order number in the SS was 901 and he thus belonged to the oldest members of the SS. (Brack, R. 7443). Before the war broke out, Brack held the rank of a Standartenfuhrer (Colonel) in the SS and during the war was promoted to Oberfuhrer (Senior Colonel), (NO-820, supra).

In 1932, even before Hitler came into power, he was appointed official in the Office of the NSDAP in Munich, the so-called "Brown House", which was then the headquarters of the party. From 1933 on, he acted as Adjutant (Staff Leader) to Buhler, who was then Reich Business Manager of the NSDAP. When Buhler was appointed chief of the "Chancellery of the Fuehrer of the NSDAP" in 1934, Brack went with him to Berlin. He was appointed Chief of Office II of the Chancellery of the Fuehrer in 1936, with the title of Reichsamtseleiter and, later, Oberdienstleiter. In Office II he acted as Buhler's deputy and took care of all of Buhler's special tasks. When Hitler charged the defendant Karl Brandt and Buhler with the execution of the euthanasia program in 1939, Brack was entrusted with important aspects of the administration of this program (NO-820, supra).

II. STERILIZATION EXPERIMENTS (Indictment, Par. 6(I))

By 1941 it was the accepted policy of the Third Reich to exterminate the Jewish population of Germany and the occupied countries. (Judgment of the I.M.T., R. 16920, et seq.) Brack, in his affidavit, described this as an open secret in high party circles. (NO-426, Pros. Ex. 160, R. 532). He also admitted having been informed by

Himmler of the decision to exterminate the Jews.

(Brack, R.7508). Trained killers from the euthanasia stations were sent to the East to assist in the program. Indeed, the program itself was used in part to exterminate the Jews. (See "Euthanasia" -- infra).

Because of the pressing need for laborers, sterilization of Jews able to work was considered as an alternative to outright extermination. Himmler requested Brack to investigate with some of the physicians who were active in the Euthanasia Program the possibilities of sterilization which would keep the victims unaware of their terrible fate. (Brack, R. 7484). In March 1941, Brack forwarded to Himmler a report, signed by him personally, on the results of experiments concerning X-ray castration. The experiments established that permanent sterilization with X-rays could only be brought about by doses which resulted in castration. The report stated that mass sterilization by means of X-rays could be carried out without difficulty and suggested, for reasons of camouflage, that the victims be brought to a counter where they would be asked to answer some questions and to fill out forms, a measure which would compel them to remain at the counter for two or three minutes. The official sitting behind the counter would operate an X-ray apparatus and sterilize the victims without their knowledge. In this way Brack estimated that 150 to 200 persons could be sterilized in one day and, therefore, with twenty such installations, sterilization of 3,000 to 4,000 victims could be carried out daily. He pointed out that sooner or later the persons would realize that they had been castrated. (NO-203, Pros. Ex. 161, R.534-5). On 12 May 1941, Himmler acknowledged receipt of the report and sent a copy to Heydrich, Chief of the

Security Police and SD. (NO-204, Pros. Ex. 162, R. 536).

The invasion of Russia began in the summer of 1941 and Brack's proposal was not acted on. On 23 June 1942, when Germany appeared to be on the verge of victory, Brack again wrote to Himmler suggesting the sterilization of Jews able to work.

After stating that he had furnished men to Globocnik in his Jewish extermination action, he pointed out that there were about 2 to 3 million Jews, of the 10 million in Europe, who were fit for work and who should be preserved. Brack was of the opinion that this could be done only if these Jews were sterilized, so they could not propagate. He recommended the use of X-rays for this purpose because it was fast and relatively cheap. Bouhler had agreed to make available the necessary physicians and personnel for this program and Brack was prepared to order the necessary apparatus with the greatest speed. Brack abandoned the idea that the victims should remain ignorant of their fate, as he then considered such pretense as irrelevant. (NO-205, Pros. Ex. 163, R. 536-7). This change of mind resulted without doubt from the fact that Brack was convinced in 1942 that Germany would win the war in the near future and, therefore, criticism of such inhuman and criminal measures could be neglected. Brack stated in direct examination that in 1942 he "was sure that the Wehrmacht would win the war". (R. 7440).

Himmler wrote Brack on 11 August 1942 that further experiments to ascertain the effectiveness of X-ray sterilization should be carried out on concentration camp inmates by expert physicians who were to be furnished by Bouhler. In order to put this decision into effect, he informed Pohl, Chief of the WVHA (Economic and Administrative Main Office) of the SS, who was in charge of concentration camps, and Grawitz, the Reichsarzt SS and Police. (NO-206,

Pros. Ex. 164, R. 538). Brack ordered his deputy, Blankenburg, to contact the Chief of the concentration camps for this purpose. (NO-207, Pros. Ex. 165, R. 538). As a result, experiments on inmates in the Auschwitz Concentration Camp were carried out by Dr. Schumann (NO-208, Pros. Ex. 166, R. 539), who previously was head of one of the euthanasia stations. (Brack, R. 7733). That X-ray sterilizations were actually carried out in Auschwitz is further established by the heart-rending testimony of the young Polish Jew, Chaim Balitzky, who, after having been subjected to severe doses of X-rays in the genital area, was castrated by operation in order that the effects of the X-ray could be studied. (R. 541, et seq.). Balitzky remembered the name Schumann in connection with these experiments. (Balitzky, R. 543). At least 100 involuntary experimental subjects -- Poles, Russians, French and prisoners of war -- were used for these experiments. (Levy, R. 556-7). Only young, well-built inmates in the best of health were selected for these experiments. (Levy, R. 556). The victims who had been sterilized were damaged physically and psychologically. Physically, they suffered from the enormous pains of radial dermatitis. Apart from that, they were irreparably damaged psychologically. (Levy, R. 559). Nearly all of the victims of these experiments were exterminated as the severe X-ray burns made them incapable of working. (Levy, R. 557; Balitzky, R. 543). Had they survived, it is probable that most of them would have contracted X-ray cancer as a result of the X-ray burns. This illness, according to contemporary science, is incurable. (Levy, R. 558).

Brack denies responsibility for the sterilization experiments. He asserted that, far from having had anti-Semitic feelings, he was opposed to the program of

exterminating the Jews as he considered this inhuman and unworthy of the German nation. He said he tried to save the Jews from their terrible fate. Together with his collaborators, Blankenburg and Hefelmann, who were of the same opinion, he claims to have conceived and forwarded plans for a decent solution of the "Jewish question". He supposed that after Germany would have won the war, many European countries would adapt themselves to German legislation in regard to the Jews. Thus, there would be no future for the Jews in central Europe. He and his collaborators, according to his testimony, suggested the re-settlement of approximately ten million European and Palestinian Jews in Madagascar as a new Jewish homeland with a Jewish government under Bouhler as German Governor. Brack goes even so far as to say that he was of the opinion that this plan would have had the support of world Jewry. (Brack, R. 7480). When this plan was rejected by Hitler and the danger that the extermination program might be carried out became more pressing, he contends that he and his collaborators tried to deceive Himmler by suggesting to him ineffective methods of sterilization in order to save the Jews. In this way he wanted to delay the extermination until after the end of the war when the idea of re-settlement of the Jews in Madagascar could be revived.

All of this is of course no defense. The fact is that Brack did have sterilization experiments carried out which resulted in the death and permanent injury of numerous helpless victims. The proof establishes, moreover, that Brack cooperated wholeheartedly in the extermination of the Jews and even furnished trained killers to Globocnik for that purpose. It is quite immaterial that Brack may have had some personal reservations. But this preposterous testimony of Brack is completely false. Brack was a

follower of Hitler's from 1923 on and a high official of the Nazi party. (supra). Racial policy, and its resultant ruthless anti-Semitism, was one of the basic tenets of Hitler's system and of the Nazi regime. (Judgment of the IMT, R. 16917, et seq.). The proof has clearly shown that Brack, far from trying to save the Jews from extermination, was completely unconcerned about the fate of seven to eight million Jews who were unable to work and only wanted to save the lives of two to three million sterilized Jews for slave labor until victory for Germany had been won. (NO-205, supra, see "Euthanasia", infra). The only conclusion which can be drawn from Brack's testimony is that he "borrowed" his line of defense from the defendant Pokorny. (Opening Address for the defendant Pokorny, R. 2283, cf. Brack, R. 7772).

III. EUTHANASIA PROGRAM (Indictment, Par. 9)

As to the description and criminal nature of the Euthanasia Program, reference is made to the Prosecution's brief against Karl Brandt.

Brack was one of the most important administrators of the Euthanasia Program. Himmler, as Reich Minister of the Interior, on receiving complaints about the execution of the program from Buch, the highest party judge, (NO-002, Pros. Ex. 392, R. 1678), wrote Brack directly requesting him to clear up certain difficulties which were brought about by the fact that the population of Grafeneck found out that in an asylum in the vicinity, insane people were killed and cremated. (NO-016, Pros. Ex. 404, R. 1711; Brack, R. 7482-3). Complaints from the high dignitaries of the church about the killing of the insane were forwarded to him for handling. (616-PS, Pros. Ex. 403, R. 1711). He dispatched letters with his personal letterhead to the Reichs Minister of Justice concerning the

Euthanasia Program and received the pertinent files directly from this official. (NO-1328, Pros. Ex. 495, R. 7691-2; NO-842, Pros. Ex. 405, R. 1712). He acted as Bouhler's deputy when the latter was absent from Berlin and corresponded in this capacity with Freisler, State Secretary of the Ministry of Justice, on questions concerning euthanasia. (NO-843, Pros. Ex. 406, R. 1712).

The witness Mennecke testified that Brack was chairman of a meeting where the doctors selected to carry out the program were informed about their duties and that he was the man who gave them the necessary information. (Mennecke, R. 1868). Brack was one of the leading personalities in the Euthanasia Program. (Mennecke, R. 1874). The witness Schmidt testified that in 1944 Brack replaced Brandt in the direction of the program. (Schmidt, R. 1825).

Brack admitted, during his testimony, having been active in the Euthanasia Program from its very beginning. (R. 7551). He decided to cooperate in the program and took some of his associates into his confidence and requested them to collaborate, too. (R. 7558). He took part in the first meetings which were held for the purpose of putting the program in operation. (R. 7565). He took care of setting up the organization of the program. (R. 7586). He had the right to issue instructions. In many cases, he acted as Bouhler's representative (R. 7587) and presided over meetings. (R. 7588). He also lectured at meetings on euthanasia, for example at the meeting of the Gau (Provincial) officials for public health in Munich (R. 7588) and at the Ministry of Justice in Berlin. (R. 7589). In winter 1939/1940 he, together with the defendant Brandt, Bouhler and Conti, was present when the first victims of the program were killed in a gas chamber of the Brandenburg Euthanasia Station (R. 7645-6) and toured all other euthanasia stations

during 1940 and witnessed the killing of many inmates. (R. 7647).

Thus by Brack's own testimony and the evidence submitted by the Prosecution, it is proved that he was a responsible administrative director in the Euthanasia Program.

Brack admits participation in the Euthanasia Program (R. 7555), but tries to credit the program itself and his participation in it with high moral and humanitarian principles. The Euthanasia Program dealt solely with incurable mental patients. (R. 7543). He welcomed euthanasia because it was based on the ethical principles of sympathy. (R. 7532).. Only his helpfulness to everyone and especially towards the sick made him advocate the idea of euthanasia. (R. 7534). For the same high humanitarian principles he also welcomed euthanasia of deformed and deficient children. (R. 7554). In the case of the euthanasia of children, the previous consent of the parents or guardians was an absolute prerequisite. (R. 7612).

As to the legal basis of the program, his position is that there was no limitation whatsoever upon the authority of Hitler to sign a paper ordering anything he might happen to wish. (R. 7665). He claimed that Jews and non-German nationals were exempted from the program as Hitler wanted euthanasia only to be granted to German citizens because it constituted an act of grace. (R. 7602, 7649). The Euthanasia Program was allegedly stopped in August 1941. (R. 4666). He tried to disassociate euthanasia from "Action 14 f 13", which was in fact the extermination of concentration camp inmates under the Euthanasia Program. Brack said he only knew that Himmler intended to have the most seriously ill concentration camp

inmates examined for their physical and mental condition and he, Brack, was of the opinion that this would be done for the benefit of these inmates. Since Himmler did not have sufficient confidence in the abilities of the concentration camp doctors, he asked Bouhler to put such doctors at his disposal. Bouhler asked Brack to get in touch with the office of the Euthanasia Program in Tiergartenstrasse 4 and to request the assignment of experienced psychiatrists for this purpose. Brack complied with this request. (R. 7535).

Brack testified that he "never had any intention of exterminating the Jewish people, but attempted to achieve the contrary, to protect the Jews and save them from a terrible fate." He can't imagine why he "should have become a champion of the extermination of the Jews." (R. 7531).

Brack's testimony is completely repudiated by his own affidavit (NO-426, Pres. Ex. 160, R. 525) and the chart drawn by him (NO-253, Pres. Ex. 331, R. 1532), so he would now have the tribunal believe that he somehow made a mistake in signing them.

Brack's testimony constitutes no defense to the charges against him. The uncontradicted evidence proves that persons were subjected to euthanasia by the hundreds of thousands without proper examination; that the patient's consent or that of the relatives was not obtained before execution; that the program had as its purpose the elimination of so-called useless lives, persons who were considered a burden on the State; that substantial numbers of non-German nationals were killed; that healthy Jews were included; that concentration camp inmates were selected by euthanasia doctors after little or no examination. Brack presents no evidence to rebut

these facts. He merely says that the program was supposed to exclude foreigners and Jews; that he was motivated by lofty moral principals; that the examinations were supposed to be thorough, etc. The essence of his testimony is that he failed to control the program of which he was an important administrator. Brack's pretense of morality is entirely immaterial. It is to be supposed that even the miserable executioners in the extermination camps of Auschwitz and Treblinka were told and believed that they were doing a fine thing for the Fatherland in killing the Jews. But even his feeble testimony of moral justification is not worthy of credence in the face of the proof.

A. Moral and Humanitarian Justification

In the brief against Karl Brandt the Prosecution has summarized the overwhelming proof that euthanasia, far from being "an act of grace", was a measure to eliminate "useless eaters" and other "undesirable" persons. Brack himself, when questioned by the Tribunal, was unable to explain why war veterans of the first world war (1914-18) were exempted from this "act of grace". (Brack, R. 7650, 7664). Contrariwise, he could not explain why this grace was extended to insane criminals, irrespective of the length of time they had spent in an insane asylum. (NO-825, Pros. Ex. 356, R. 1577; Brack, R. 1718-9).

Brack personally reprimanded Mennecke, who was an expert in the Euthanasia Program, on the ground that his expert opinions were far too soft and did not recommend euthanasia as often as he desired. (Mennecke, R. 1907, 1881). The so-called "observation stations" where the patients, according to Brack's statement, were examined for several weeks by expert doctors, were nothing but collecting points for the victims. (Mennecke, R. 1876-9; Schmidt, R. 1822).

Brack admitted that the work of Binding and Hoche is considered the standard work on euthanasia. (R. 7633). This work leaves no doubt that the will to live of even those who are most seriously ill, suffer most gravely and are of least use should be fully respected and that any authority for the annihilation of life is excluded in cases where the will to live must be broken. (NO-2893, Pros. Ex. 496, R. 7700). Brack himself admitted that euthanasia is inadmissible in cases where the patient has the will to live. (R. 7701). The witness Schmidt testified that the victims, who obviously knew or suspected their fate, had to be forced to enter the buses which took them to the extermination stations. (Schmidt, R. 1861, 1856). This evidence is corroborated by documentary proof. (D-906, Pros. Ex. 376, R. 1819-21). While many of those victims may have been insane, they certainly did not lack the will to live. Moreover, Brack himself admitted, when questioned by the Tribunal, that Bouhler ordered that the arrangements for the killing had to be made in such a way that the patients would not realize what was being done to them. (Brack, R. 7660). The gas chambers where the victims were annihilated resembled shower rooms. (Brack, R. 7659). The patients were deceived into thinking that they were to take a shower bath and, therefore, had to undress. (Brack, R. 7644, 7660). Such precautions would certainly not have been necessary if the victims had desired the "privilege of a mercy death".

In the case of killing of children, a previous consultation with parents and relatives did not take place. (3864-PS, Pros. Ex. 367, R. 1593). Brack's own defense witness, Pfannmueller, testified that, after having received authorization from the top experts to kill the child, he invited the relatives to visit the child

because it was sick. However, he never notified the parents or guardians that he was going to kill the child because this was a top secret matter. (Pfannmueller, R. 4394). From the documents submitted by the defendant Brack, it is made clear that the parents were deceived about the purpose of the transfer of the children to institutions where they were to be killed. It was the business of the medical officers to induce the parents to send their children to such institutions by telling them that there was a possibility of achieving certain successes with treatment. (Brack Doc. 52, Brack Ex. 43, R. 7678; cf. Brack, R. 7717). The parents were told that the best care would be taken of the child in such institutions and everything possible in the way of modern therapy would be carried out. (Brack Doc. 51, Brack Ex. 42, R. 7678). From these documents it is clear that the parents were not only not asked for their consent in the case of killing of children, but were deceived in order to make the transfer to a euthanasia institution possible.

B. Action 14 f 13

Brack tried to dissociate the Euthanasia Program from Action 14 f 13. He testified that the personalities of Heyde, Nitsche, Steinmeyer and Faltlhauser were the safeguard that the examinations of the concentration camp inmates, which allegedly were ordered by Himmler, would be carried out in a proper manner and for the benefit of these inmates. He considered it entirely impossible that "Heyde, with all his decent personality" would have participated in an action like 14 f 13. (Brack, R. 7538-9). This, of course, is at best a pious assumption. The proof has shown that all these doctors named by Brack collaborated in the selection of concentration camp inmates

for extermination. (Mennecke, R. 1882). Dr. Mennecke received his orders for such selections from Brack, Heyde and Nitsche as early as 1940. (Mennecke, R. 1882, R. 1909). He was instructed by these three persons that it was not necessary to examine the Jews in concentration camps and that it would be sufficient if the reasons for arrest were transcribed on the usual euthanasia questionnaires. (Mennecke, R. 1891-3). These Jews were, for the most part, physically and mentally healthy. (Mennecke, R. 1893, 1931). Mennecke discussed his activities in the concentration camps with Brack, Heyde and Nitsche. (Mennecke, R. 1934). He never had dealings with Linden. (Mennecke, R. 1931). Mennecke's testimony is corroborated by his letters to his wife. (NO-907, Pros. Ex. 412, R. 1764, et seq.)

The affidavit of the camp physician of the Dachau Concentration Camp, Dr. Huthig, proves that Heyde, as leader of a commission of four psychiatrists, visited the Dachau Concentration Camp in the autumn of 1941. This doctors' commission selected inmates unable to work for extermination by gas. (NO-2799, Pros. Ex. 497, R. 7710). The affidavit of Dr. Gorgass reveals that he and Dr. Schuman, both of whom were active in the Euthanasia Program, visited the Buchenwald Concentration Camp in June 1941. Gorgass states explicitly that the purpose of this trip was to acquaint himself with the selection of concentration camp inmates for euthanasia. The order for this visit was transmitted to Gorgass by the defendant Brack. (NO-3010, Pros. Ex. 503, R. 7734).

If the testimony of Brack and Brandt as to the number of doctors who were active in the Euthanasia Program is correct, it is clear from the record that all doctors active in this program collaborated in Action 14 of 13. Brandt estimated the number of doctors who were charged with the execution of the Euthanasia Program as 10-15 (Brandt, R. 2478), Brack as 12-15. Brack, R. 7573). Mennecke testified that about 15 doctors from the Euthanasia Program were commissioned to carry out the "examinations" in the concentration camps. (Mennecke, R. 1891).

Brack was unable to explain how it came about that concentration camp inmates selected in Action 14 f 13 were killed in euthanasia stations. (Brack, R. 7541).

In the light of this evidence and of the evidence on Action 14 f 13 summarized in the Prosecution's brief on Karl Brandt, Brack's statement that he was unaware of the connection between the Euthanasia Program and Action 14 f 13 and that he never took part in the latter is potentially untrue.

While it is of no special significance, there is ample proof that the Euthanasia Program did not stop in August 1941 and that Brack did continue his activities in the frame of the Program. The witness Schmidt testified that Brack had been active in the Program even after 1942 (R. 1858), and that in 1944 Brack took over the direction of the Euthanasia Program from Brandt. (R. 1825). The witness Mennecke testified that he corresponded with Brack on matters pertaining to the Program as late as in June 1942. (R. 1892). This evidence is corroborated by other proof. (NO-907, Pros. Ex. 412, R. 1752). Mennecke received the photostat copies of expert opinions and executed such opinions until he left the Program in December 1942. (Mennecke, R. 1898). The Reichs Association, The Foundation, and the Transport Corporation continued their respective activities after August 1941 and there was no change in this respect when Mennecke ceased to be active in the Program at the end of 1942. (Mennecke, R. 1902). Also the leadership of the Program remained in the same hands. (Mennecke, *ibid*). Blankenburg, when writing to Hirtler on 14 August 1942, calls himself the permanent deputy of Brack and by no means his successor. (NO-207, Pros. Ex. 165, R. 538). Other documentary proof

has shown that as late as July 1944, slave laborers of Polish and Russian nationality were subjected to euthanasia. (NO-1116, Pros. Ex. 415, R. 1781).

C. Non-German Nationals and Jews

In spite of the extensive proof which was submitted by the Prosecution that non-German nationals and Jews were among the victims of the Euthanasia Program, quite aside from Action 14 f 13 (See Prosecution's brief on Karl Brandt), Brack would have the Tribunal assume that foreigners and Jews were exempted from the Program. Hugo Suchanek, LL.D., the highest official after the Minister in the Austrian Federal Ministry of Justice, says in his affidavit that when Brack, as representative of the defendant Brandt, gave a lecture on euthanasia in the Ministry of Justice in 1942, he enumerated the war wounded and persons who had become insane as a result of air attacks as the classes of persons who were exempted from the Program. Foreigners and Jews were not mentioned among the groups of persons who were excluded. (NO-2253, Pros. Ex. , R.). Brack admitted having held the lecture. (R. 7589).

Dr. Enkert states in his affidavit, which was submitted by the Defense, "as far as I can remember, certain exceptions were stipulated for the performance of Euthanasia; for instance, persons suffering from injuries of the brain incurred during the first world war and, I think, foreigners were also excepted." (Brack Doc. 37, Brack Ex. 37, R. 7591). Ellipses supplied). He obviously has no recollection that foreigners were to be excluded and does not mention Jews at all. The affidavit is without probative value on this point. The self-serving statements of parties to the crime do not in any way refute the fact established by documents and testimony of witnesses who actu-

ally did the selecting that Poles, Russians, Czechs, and other non-German nationals were killed in euthanasia stations.

Brack denied in cross examination that he ever concerned himself with the transfer of Polish insane patients. He denied ever having made arrangements for such transfer or for the funds for such transfer. (Brack, R. 7720). The documents submitted to him in the course of cross examination prove beyond any doubt that in the autumn of 1940, funds for the evacuation of 1558 inmates of mental institutions of East Prussia and between 250 to 300 insane Poles were made available by Brack. As to these transfers were carried out by a special action group (Sonderkommando) of the infamous SD, there is no doubt that persons were killed. (NO-2909, Pros. Ex. 500, R. 7721; NO-2911, Pros. Ex. 501, R. 7722).

Brack asserted that the questionnaires which had to be filled out on all non-German nationals, irrespective of the length of their stay in a mental institution, served only as camouflage. In the face of the abundant evidence to the contrary, however, his testimony cannot be viewed as credible. He further stated that the transports of Jews who were sent from the Insane Asylum Eglfing-Haar on 20 September 1940 did not go to Lublin in Poland, but to Chelm. (Brack, R. 7621). It is not only proved by the defense witness Pfannmueller (R. 7376), but also by a letter of a relative of a Jewish victim who was killed there, that at least one of the transports of Jews from Eglfing-Haar went to Lublin. (NO-3354, Pros. Ex. R.). That Jews were not excluded from the Program is further shown by the first transport list of the Insane Asylum Eglfing-Haar, dated 18 January 1940, which lists in

the first place a Jewish inmate. (NO-3356, Pros. Ex. R.

). This transport list bears the name of the transport leader of the Transport Corporation, Vorberg, one of the collaborators of Brack in the Program. (Brack, R. 7563-4).

D. Legality

As to the illegality of the Euthanasia Program, reference is made to the Prosecution's brief on the defendant Karl Brandt.

That the letter of Hitler to Brandt and Bouhler (630-PS, Pros. Ex. 330, R. 1516) was not considered a sufficient legal basis in Nazi Germany is proved not only by the testimony of the defense witness Lammers, (R. 2672, 2679), but also by the letter of the Reichs Minister of Justice, Guertner, dated 24 July 1940, where he informed Lammers that the Fuehrer had refused to issue a law and it was, therefore, necessary to discontinue the secret extermination of insane persons immediately. (NO-832, Pros. Ex. 393, R. 1679). A copy of this letter was sent to Bouhler on 27 July 1940. (NO-833, Pros. Ex. 394, R. 1679-80). It is certain that Brack obtained knowledge of this letter as it was one of the tasks entrusted to him by Bouhler to deal with the complaints from the various legal authorities. Brack denied this activity of his in cross examination, but the documents submitted to him show clearly the opposite. (NO-1328, Pros. Ex. 495, R. 7691-2). Brack's activities in this respect are also confirmed by other evidence in the record. (NO-842, Pros. Ex. 405, R. 1712; NO-843, Pros. Ex. 406, R. 1712). He lectured on euthanasia at the Ministry of Justice and deceived the persons present at the lecture about the extent of the Program. From the remarks of Brack, the impression was obtained that only a very limited number of persons, at the utmost several hundred, throughout Germany, Austria and the Protectorate Bohemia and Moravia, would be subjected to euthanasia. The opinion created was that only very dangerous patients and delirious lunatics who might injure themselves would be subjected to the Program.

(NO-2253, supra). This obviously was done to quiet the misgivings of the persons present. Brack, when asked on the stand whether he gave, during the lecture, an approximate number of persons who would be subjected to euthanasia, could or would not give an answer. In contradiction to the impression created during the conference in the Ministry of Justice, the defendants Brack and Brandt now admit that about 50 to 60 thousand persons were killed in the euthanasia program in Germany and Austria alone. (Brandt R. 2465; Brack, R. 7610). Even Brack's own documents reveal that he misinformed the legal authorities about the legal situation in respect to the Euthanasia Program. The Ministerial Director in the Reichs Ministry of Justice, Karl Emsert, states in his affidavit, which, according to the defense counsel of Brack, is "of great interest because it shows the opinion of the influential jurists in this question": "Brack's statements reassured me because, according to them, it was to be definitely assumed that a Reich law would then be enacted in the customary form, i.e. by publication in the Reichs Law Gazette. I saw no reason why any difficulties should arise." (Doc. Brack 37, Brack Ex. 37, R. 7591-2). Needless to say, Brack did not mention that Hitler had refused to issue such a law until after the war. (supra).

That Brack was well aware of the fact that the Euthanasia Program was a criminal one is proved by his attempt to destroy evidence prior to the occupation of Germany by the Allies. The affidavit of Claussen proves that he sent the following teletype to the Commander of the Concentration Camp Mauthausen:

"TO THE CONCENTRATION CAMP M.UTHAUSEN
SS STANDARTENFUEHRER ZIEREISS

HARTHEIM MUST BE DESTROYED IMMEDIATELY.

EXECUTION MUST BE REPORTED BY ORDER OF
THE FUEHRER.

SIGNED: OBERFUEHRER BR/CK"

(NO-2429, Pros. Ex. 498, R. 7714). Brack admitted that Hartheim was a Euthanasia Station, where the victims of the Euthanasia Program were killed. (Brack, R. 7714).

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E. General Extermination of the Jews

Bruck denied any participation in the extermination of the Jews. (E. 7531). He said that Buhler never would have furnished personnel to Globocnik for the extermination of the Jews. (E. 7514). Buhler, however, told him that Globocnik had asked for more personnel from Tiergartenstrasse 4, the office of the Euthanasia Program. Only after Buhler had agreed to his request, did Globocnik take him into his confidence and reveal that he had been charged by Hitler with collaboration in the extermination of the Jews. Buhler was supposedly shocked and withdrew immediately his consent to furnish Globocnik with additional personnel and even requested that the personnel of Tiergartenstrasse 4, who already had been placed at Globocnik's disposal, should be returned. (E. 7515). Globocnik gave his assurance that the personnel furnished by Tiergartenstrasse 4 would not be used for the extermination of the Jews and Buhler, on the basis of this assurance, withdrew his objections. (E. 7516). Bruck further testified that Blankenburg, his deputy, cooperated with him in the plans to save the Jews from their fate. (E. 7729).

In utter contradiction to this statement, Bruck admitted in his own affidavit that the Euthanasia Program and the personnel who executed it were used in the extermination of the Jews in the East from about 1941 until the liberation of the Eastern Territories. Some time in the second half of 1941 a part of the personnel, who were until then executing the Euthanasia Program in Germany, was sent to Lublin and put at the disposal of SS Brigadefuehrer Globocnik in order to assist in the mass extermination of the Jews which was then al-

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ready common knowledge in the higher circles of the NSDAP. Among the doctors who assisted in the extermination of the Jews were Dr. Eberle and Schumann, both of whom had been previously active in the Euthanasia Program in Germany. (NO-426, Pros. Ex. 160, P. 331). Bruck would have the Tribunal believe that he somehow made a mistake in his affidavit, but he had to admit that he signed the affidavit voluntarily and was permitted to make, and did make, changes. (Bruck, P. 7726). He also recanted the chart which he had sworn to be correct (NO-253, Pros. Ex. 331, P. 1518), but the draft he had made in the prison in the absence of any representative of the Prosecution confirms in its significant points the correctness of this chart. (NO-2758, Pros. Ex. 302, P. 7727). Bruck admitted that he drew this draft. (P. 7727). His defense counsel announced an intention to prove, by submitting an interrogatory of the prison doctor, that Bruck was in a mental and physical state which would have rendered him incapable of understanding the significance of his statement. He refused to submit the interrogatories and cross-interrogatories when requested by the Tribunal. (P. 7421-3).

A letter of 23 June 1942 from Bruck to Himmler proves on its face not only that the Jews were being exterminated, as indeed Bruck admitted on the stand, but also that Bruck was wilfully assisting in the program. The letter stated:

"On the instructions of Reich-Leader Buehler I placed some of my men - already some time ago - at the disposal of Brigadefuehrer Globocnik to execute his special mission. On his renewed requests I now transferred additional personnel. On this occasion Brigadefuehrer Globocnik stated his opinion that the whole Jew-action should be completed as quickly as possible so that one would not get caught in the middle of it one day if some difficulties should make a stoppage of the action necessary. You yourself, Reichsfuehrer, have already expressed your view, that work

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should progress quickly for reasons of
camouflage alone....." (NO-205, Pres. Ex.
167, R. 536).
(Emphasis supplied).

Brack went on to suggest that the Jews able to work be sterilized and used as labor. Brack allegedly does not remember having written this letter himself. In spite of the fact that the document is dated Berlin, 23 June 1942, V 8, Voss Strasse 4, which was his address, he asserted that very likely he was absent from Berlin on that date and that the letter was sent after him to the Front for signature. (Brack, R. 7519). This is of no importance. He admitted having signed the letter. Moreover, he admitted that he very seldom wrote personal letters to his highest commander in the SS, Himmler. (R. 7731). In view of the high position of the addressee, it is incredible that he should not have read the letter carefully before dispatching it, even if he considered the contents of no great importance. Brack draws very fine distinctions in the wording of the letter, for example, that the phrase "On this occasion" is by no means synonymous with "In this connection", and that the phrase used means "In the course of this conversation". (Brack, R. 7522).

That the defense of Brack is fabricated is proved by other evidence in the record. SS Judge, Dr. Morgen, who investigated the criminal case of "Hirth" testified before the International Military Tribunal that when "Hirth" took over the mass extermination of the Jews, he was already a specialist in the extermination of human beings. He had previously carried out the task of annihilating the insane. He had received this assignment from the Chancellery of the Fuehrer, Buehler's Office. A system which "Hirth" had devised

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in his activities in the Euthanasia Program made it possible to exterminate large numbers of people with the help of only a few assistants. The same system, with a few improvements, was employed for the extermination of the Jews. Wirth's assignment for the extermination of the Jews came from Bouhler's office, from the very office where Brack was active. Morgen investigated Wirth's mail and found out that the courier who brought this mail came from the Fuehrer's Chancellery, Tiergartenstrasse, the place where the office of the Euthanasia Program was located. Among the people connected with this extermination program, Morgen remembers Blankenburg, Brack's deputy. (NO-2614, Pros. Ex. 504, R. 7735-7). Brack admitted that Wirth was active in the Euthanasia Program. (R. 7733). It may well be that Morgen started his investigations in July 1943 (I...I. Transcript, R. 15289), but by the affidavit of Gorgass, it is proved that Wirth received his assignment from the "Foundation", one of the camouflaged societies of the Euthanasia Program, as early as the summer of 1941. (NO-3010, *supra*).

This evidence is fully corroborated by the affidavit of Gerstein. Globocnik was in charge of the extermination camps near Lublin, and Wirth collaborated with him in the extermination of the Jews. The gas chambers were camouflaged as "bath and inhalation" rooms and called "Foundation" Heckenholt. Doctors' commissions toured the towns and villages of Poland and Czechoslovakia in order to select persons for extermination. (1553-73, Pros. Ex. 428, R. 1880-6). Brack when questioned by the Tribunal, admitted that the gas chambers of the euthanasia stations where the victims of the Euthanasia Program were killed were camouflaged as "shower rooms". (R. 7659). "Foundation" was one of the code names

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under which the Euthanasia Program operated. (Brack, R. 7577; NO-3010, supra). The similarity between the extermination arrangement in the Euthanasia Stations and that used by Globocnik and Firth is not coincidental.

The proof has shown that Brack himself advanced plans for the mass extermination of the Jews. In the beginning of October 1941 Brack had a conference with Eichmann from the Reich Security Main Office of the SS and Wetzel of the Reich Ministry for the Occupied Territories on the "solution of the Jewish question". (NO-897, Pros. Ex. 506, I. 7741). Brack declared himself ready to collaborate in the manufacture of the necessary gas chambers and gassing apparatus for the extermination of all Jews who were unfit to work. Since the manufacture of this apparatus was easier to accomplish in the East, Brack agreed to send some of his collaborators and especially his chemist, Kallmeyer, there for this purpose. Brack proposed outright extermination of all Jews who were unable to work. Since Eichmann, whom Hitler had charged with the solution of the Jewish question, was in agreement with Brack's proposals, no objection was voiced against the extermination of those Jews who were unable to work with the "Brack remedy". (NO-365, Pros. Ex. 507, I. 7743-4). Kallmeyer was the technical expert on operation of the gas chambers in the euthanasia stations. (Brack, I. 7743). According to Eichmann's own estimate, approximately four million Jews were killed in the extermination institutions, that is to say, with the "Brack remedy". (NO-8737, Pros. Ex. 505, I. 7740; I.M.T. Judgment, Page 16924).

CONCLUSION

Brack was an ardent supporter of Hitler as early as 1923. He was the 901st man to join the SS. He rose in the Nazi

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hierarchy to a position of power and influence in the Chancellery of the Fuehrer of the NSDAP.

Brack was one of the principal administrators of the euthanasia program, which involved the ruthless murder of hundreds of thousands of helpless men, women, and children. This was no altruistic program to ease the pains of an impending and unavoidable death. It was rather a program for the extermination of those who were considered a burden on the State, who were unable to work, who consumed without producing. No law gave it a superficial legality. It was illegal in its inception and operation. Judgment was passed by so-called experts as to the life or death of a patient on the basis of questionnaires without the expert so much as having seen the patient. It encompassed the murder of Germans and citizens of occupied countries alike. It extended to concentration camp inmates of non-German nationality forcibly detained in Germany.

Scientific killers trained in the gas chambers of the euthanasia stations were sent to the East to assist in the mass murder of Jews. Brack sent euthanasia personnel to Globocnik, who ran the extermination camps in the area of Lublin. Brack conferred with Eichmann, who was in charge of the solution of the Jewish question, and agreed to supervise the construction of gassing apparatus for the extermination of all Jews unable to work. He sent Kallmeyer, the supervisor of gas chambers in euthanasia stations, to aid in this project, known as the "Brack remedy". Brack did not limit his Jewish persecution to outright murder. He proposed that those Jews not exterminated immediately because of inability to work be sterilized. He initiated sterilization experiments on Polish Jews in the Auschwitz Concentration Camp with X-rays.

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The victims, after being subjected to severe X-ray burns in the genital area, were castrated by operation. Most of them were later killed.

The Prosecution submits that the evidence proves that Brack was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experimentation on human subjects without their consent, and the execution of the Euthanasia Program, in the course of which activities murders, brutalities, cruelties, tortures, atrocities and other inhumane acts were committed and that his guilt has been established under Counts I, II, III and IV of the Indictment.

M I L I T A R Y T R I B U N A L N O . I

CASE NO. 1

CLOSING BRIEF FOR
THE UNITED STATES OF AMERICA
AGAINST
KARL BRANDT

James M. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

For:

Telford Taylor
Brigadier General, U.S.A.,
Chief of Counsel for War Crimes

Nurnberg,
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INTRODUCTION

It is alleged, in essence, under Count I of the Indictment, that Karl Brandt conspired and agreed with others, pursuant to a common design, to perform medical experiments on involuntary human subjects; under Counts II and III (War Crimes and Crimes Against Humanity, respectively), that he was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experimentation on involuntary human subjects and the execution of the so-called "euthanasia" program; under Count IV, that he was a member, after 1 September 1939, of the SS, an organization declared to be criminal by the International Military Tribunal.

The acts recognized as War Crimes and Crimes against Humanity are set forth in Paragraphs 1 (b) and (c) of Article II of Control Council Law No. 10. Membership in an organization declared criminal by the International Military Tribunal is defined as a crime in Paragraph I(d) of the same article.

The criteria of criminality are set forth in Paragraph 2 of Article II of Control Council Law No. 10, which reads in part as follows:

"2. Any person without regard to nationality or the capacity in which he acted, is deemed to have committed a crime as defined in Paragraph 1 of this Article, if he was (a) a principal or (b) was an accessory to the commission of any such crime or ordered or abetted the same or (c) took a consenting part therein or (d) was connected with plans or enterprises involving its commission or (e) was a member of any organization or group connected with the

commission of any such crime".

I. POSITIONS OF RESPONSIBILITY

The defendant Karl Brandt held positions of great power and responsibility in the state medical services of Nazi Germany.

He joined the Nazi party in January 1932 and the SS in 1934. In the latter year, at the age of 30, he became the attending physician to Adolf Hitler and retained this position until 1945. His close personal relationship to the Fuehrer explains his rapid rise to power. On the day Poland was invaded in 1939, Hitler ordered Brandt and Philipp Bouhler to carry out the so-called euthanasia program. By Fuehrer decree dated 28 July 1942, he was appointed General Commissioner of the Health and Medical Services and was directly responsible to Hitler. Brandt was the only German medical officer who had such direct responsibility. By decree of 25 August 1944 he was appointed Reich Commissioner of the Health and Medical Services, a rank equivalent to that of a Reich Minister. He attained the rank of Gruppenfuehrer (Major General) in the SS. (NO-475, Pros. Ex. 4, R. 89 et seq.). Brandt was also a member of the Reich Research Council from 1942 until the end of the war. (NO-1730, Pros. Ex. 441, R. 2091).

Aside from his personal influence and intimate connection with Hitler, Brandt's greatest power in the medical services came from his position as General Commissioner and later Reich Commissioner of the Health and Medical Services. By the decree of 28 July 1942 Hitler established for the first time a medical and health official under his direct control. This decree also commissioned the defendant Handloser as Chief of the Medical Services of the Wehrmacht while, in the field of civilian health administration, Dr. Leonardo Conti, the Secretary of State for

Health and the Reich Health Leader, was made responsible for "coordinated measures". As to Brandt, the decree stated:

"3. I empower Prof. Dr. Karl Brandt, subordinate only to me personally and receiving his instructions directly from me, to carry out special tasks and negotiations to readjust the requirements for doctors, hospitals, medical supplies, etc., between the military and the civilian sectors of the Health and Medical Services.

My plenipotentiary for Health and Medical Services is to be kept informed about the fundamental events in the Medical Service of the Wehrmacht and in the civilian Health Service. He is authorized to intervene in a responsible manner." (emphasis supplied) (NO-080, Pros. Ex. 5, R. 93).

Thus, Brandt was given extensive powers over both Handloser and Conti and through them over the Army, Navy, Luftwaffe, Waffen SS, and civilian medical services. He was subordinated to no one save the Fuehrer; he was the man to act for the Fuehrer in medical matters. It is also significant that the decree authorized Brandt "to intervene in a responsible manner" and directed that he be kept informed of "fundamental events". It is difficult to imagine what could be more fundamental than a policy of performing medical experiments involving torture and death on involuntary human subjects.

On 5 September 1943, Hitler issued a second decree empowering Brandt "with centrally coordinating and directing the problems and activities of the entire Medical and Health Service according to instructions". The order expressly stated that the General Commissioner's authority covered the field of medical science and research. (NO-081, Pros. Ex. 6, R. 94). However, it is apparent that this decree was issued to clarify rather than extend the powers of the General Commissioner, as Brandt had the right (and, indeed, duty) "to intervene in a responsible manner" pursuant to the decree of July, 1942.

Finally, on 25 August 1944, the Fuehrer elevated Brandt to Reich Commissioner for the Health and Medical Services and stated that in this capacity "his office ranks as highest Reich authority". He was again authorized "to issue instructions to the offices and organizations of the State, Party, and Wehrmacht which are concerned with the problems of the Medical and Health Services." (NO-062, Pros. Ex. 7, R. 95). See also the organization chart drawn by Brandt. (NO-645, Pros. Ex. 3, R. 88 et seq.) This decree was issued to resolve a struggle for power between Brandt and Conti. (Brandt, R. 2602). Certainly, the decree does no more than give Brandt a more august title and restate his powers, powers he had already received on 28 July 1942. Brandt testified that it merely "strengthened" his position. (R. 2602).

In this same connection, it is important to note certain provisions of the Service Regulation for the Chief of the Medical Services of the Wehrmacht issued to the defendant Handloser by Keitel on 7 August 1944. Paragraph 2 and 3 of Section II (Duties) thereof reads in part as follows:

"2. The Chief of the Medical Services of the Wehrmacht will direct the total Medical Services of the Wehrmacht as far as the special field is concerned, with regard for the military instructions of the Chief of the High Command of the Armed Forces and the general rules of the Fuehrer's Commissioner General for Medical and Health Departments.

"3. The Chief of the Medical Services of the Wehrmacht will inform the Fuehrer's Commissioner General about basic events in the field of the Medical Services of the Wehrmacht." (NO-227, Pros. Ex. 11, R. 103)

Thus, we see that Handloser was ordered by this Service Regulation to follow the rules of General Commissioner Brandt and to inform him of the "basic events" in the field of the Medical Services of the Wehrmacht. This field covered the medical services of the Army, Navy,

Luftwaffe, and Waffen SS. This regulation was issued on 7 August 1944 to replace one of 28 July 1942. (R.102). On the latter date, Handloser was appointed Chief of the Medical Services of the Wehrmacht by the same Fuehrer decree which made Brandt General Commissioner; on 7 August 1944, Handloser relinquished his position as Chief of the Army Medical Inspectorate which he had held since February 1941. (NO-443, Pros. Ex. 10, R. 98). It must therefore be considered whether the Service Regulation of 28 July 1942, which is not available, also required Handloser to report to Brandt. No other conclusion can be drawn. Paragraph 5 of the Fuehrer Decree of 28 July 1942 explicitly orders that Brandt "is to be kept informed about the fundamental events in the Medical Service of the Wehrmacht and in the Civilian Health Service. He is authorized to intervene in a responsible manner! Thus, as early as 28 July 1942, Brandt was the technical or medical superior of Handloser and Conti who were ordered to report to him. In Paragraph 6 of his affidavit, the defendant Handloser expressly states that after he became Chief of the Medical Services of the Wehrmacht on 28 July 1942, "Dr. Karl Brandt, General Commissioner for Medical and Health Matters, and later Reich Commissioner for Medical and Health Matters, was my immediate superior in medical affairs". (NO-443, Pros. Ex. 10, R.99). See, also the organizational chart of the Medical Services of the Wehrmacht drawn by Handloser. (NO-282, Pros. Ex. 9, R. 97).

The extensive power and authority of Karl Brandt is proved by other evidence in the record. Schroeder stated in Paragraph 8 of his affidavit that "Karl Brandt, Handloser, and Rostock were informed of the medical research work conducted by the Luftwaffe". (NO-449, Pros. Ex. 130, R. 474).

Moreover, the organizational charts of the Medical Service of the Luftwaffe drawn by Schroeder show that Brandt had supervisory authority over the Medical Service of the Luftwaffe both before 1944 when Hipke was in command and after 1944 when Schroeder was in command. (NO-418, Pros. Ex. 12; NO-419, Pros. Ex. 13, R. 105).

The same fact with respect to the Medical Service of the SS is proved by the organizational charts drawn by Krugowsky. (NO-416, Pros. Ex. 22; NO-417, Pros. Ex. 23, R. 121). His power was such that he could relieve all German physicians from the obligations of the physician-patient relationship and could order such physicians to report serious illnesses of high governmental officials to him. (NO-119, Pros. Ex. 445, R. 2586).

So much for Karl Brandt's position as General Commissioner and Reich Commissioner of the Health and Medical Services. It has been established that Brandt became a member of the Reich Research Council in 1942 (NO-1730, Pros. Ex. 441, R. 2091; Brandt, R. 2598). The purpose of the Reich Research Council was set forth in a Fuehrer decree of 9 June 1942, which reads in part as follows:

"The necessity to expand all available forces to highest efficiency in the interest of the state requires, not only in peacetime but also, and especially, in wartime, the concentrated effort of scientific research and its channellization toward the goal to be aspired.

"Therefore, I commission the Reich Marshal Hermann Goering to establish as an independent entity a Reich Research Council, which is to serve this purpose, to take over its chairmanship himself and to give it a charter.

"Leading men of science above all, are to make research fruitful for warfare by working together in their special fields." (NO-894, Pros. Ex. 38, R. 144)

Brandt was a member of the Presidential Council (Prasidialrat) of the Reich Research Council, a policy

making body of 21 members made up of cabinet ministers, high ranking military officers, and high ranking party members. (Brandt, R. 2605). Himmler, Bormann, Conti, Keitel, and Milch were co-members with Brandt. At least from the time Rostock assumed office under Brandt as head of the Office for Science and Research, (following the Fuehrer Decree of 5 September 1943), the Reich Research Council was subject to a degree of supervision by Brandt as General Commissioner. See the organization chart of Brandt's office (NO-645, Pros. Ex. 3, R. 88).

The proof has shown that the Reich Research Council supported and furthered medical experimentation on involuntary human subjects - concentration camp inmates. As early as December 1942, the Reich Research Council was asked to pass judgment by the Reichsminister of Finance on a request for research funds by Reichsarzt SS Grawitz. Dr. Mentzel of the Reich Research Council approved of this allocation of funds on 25 March 1943 saying: "As far as they, to a smaller part, are meant for the extension of scientific research possibilities they pertain exclusively to such matters which can be carried out only with the material (prisoners) accessible to the Waffen SS and therefore cannot be undertaken by any other research agency." (002-PS, Pros. Ex. 39, R.152). (Transcript is incorrect at this point and reference should be made to Document Book No. 1). The Prosecution called the Tribunal's attention to the finding of the International Military Tribunal in Case No. 1 which reads as follows:

"In connection with the administration of the concentration camps, the SS embarked on a series of experiments on human beings which were performed on prisoners of war or concentration camp inmates. These experiments included freezing to death and killing by poison bullets. The SS was able to obtain an allocation of Government funds for this kind of research on the grounds that they had access to human material not available to other agencies." (R. 153).

The activities of the Reich Research Council in criminal experimentation on involuntary human subjects were not limited to approving funds for research by the SS. Research assignments were commissioned by it, involving experiments on concentration camp inmates. Thus, in the autumn of 1943, Rascher received an assignment from the Reich Research Council to conduct dry freezing experiments, while Hirt was carrying out the mustard gas experiments in Natzweiler with its support. (NO-690, Pros. Ex. 120, R.371, et seq; Doc. NO-432, Pros. Ex. 119, R. 369). An interest was also shown in the blood coagulant developed by Rascher in Dachau, during experiments with which concentration camp inmates were shot. (NO-613, Pros. Ex. 243, R. 962). And, together with the Luftwaffe, the Reich Research Council sponsored typhus, yellow fever, and jaundice experiments by Haagen on inmates of the Natzweiler Concentration Camp. (NO-137, Pros. Ex. 189, R. 737). Such were the activities of the Reich Research Council.

There can be no doubt that Brandt was informed of these activities. Indeed, he had personal contact with the gas research on concentration camp inmates by Hirt. (infra) There were only two doctors on the Presidential Council (Brandt and Conti) and only four doctors in the scientific departments and fields of plenipotentiaries (Schreiber, Blome, Sauerbruch, and Jotten) (Brandt, R. 2607). Certainly, each of these men knew what the other was doing within the Council.

These then were the positions of responsibility of the defendant Karl Brandt: personal physician to Adolf Hitler, Gruppenfuhrer in SS, co-director of the euthanasia program, General Commissioner and Reich Commissioner of the Health and Medical Services, and member of the Presidential Council

of the Reich Research Council. Brandt used the foregoing positions, his personal influence, and his intimate connection with the Fuehrer in a manner which involved the commission of the War Crimes and Crimes Against Humanity set forth in the Indictment.

II. PERSONAL PARTICIPATION IN CRIMINAL EXPERIMENTATION

It is not to be expected that a man in the position of Brandt would stoop to performing criminal experiments himself. This was left to willing and ambitious hands at a lower level. The proof has clearly shown, however, that he personally encouraged experimentation on human beings without their consent. And what is more culpable, with full knowledge that concentration camp inmates were being systematically experimented upon by doctors of the Luftwaffe, Army, SS, and civilian health sector, he never used the tremendous power that was his to end this perversion which resulted in the murder, torture, and inhumane treatment of thousands of helpless men, women, and children.

The gravamen of the charge under Paragraph 6 of Count II (War Crimes) and Paragraph 11 of Count III (Crimes Against Humanity) is that all of the defendants were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving medical experiments without the subjects' consent, in the course of which murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts were committed. In Paragraph 6 the experimental subjects are alleged to have been civilians and members of the armed forces of nations then at war with the German Reich, while in Paragraph 11, German civilians and nationals of other countries. Therein, for purposes of this case, lies the only significant difference in proof of ultimate facts. A War Crime

is necessarily a Crime Against Humanity, while a Crime Against Humanity is a War Crime only if committed against a civilian from occupied territory or a prisoner of war.

Under Paragraph 6, twelve different types of experiments are particularized. Of these, Brandt is charged with special responsibility for and participation in ten, namely, the high altitude, freezing, malaria, gas, sulfanilamide, bone, muscle and nerve regeneration and bone transplantation, seawater, epidemic jaundice, sterilization and typhus experiments. In order to simplify the issues, the Prosecution has withdrawn its charge of participation in the high altitude experiments.

It is not incumbent upon the Prosecution to show that Brandt was familiar with all of the details of all of these experiments. It is sufficient to prove that he knew or should have known of the systematic use of involuntary human subjects for medical experiments by agencies over which he exercised a substantial degree of power and authority. (Application of Yamashita, 66 S.Ct. 340, 377 (1946).) This and more the Prosecution has proved.

The experiments in which there is direct evidence of participation by Brandt will be discussed first.

A. SULFANILAMIDE EXPERIMENTS (Indictment, Par. 6 (E))

Experiments with sulfanilamide were conducted in the Ravensbruck Concentration Camp from the middle of 1942 until August 1943. For a detailed statement on the criminality of these experiments see the Prosecution's brief on Gebhardt. These experiments were performed by the defendants Fischer and Oberheuser, among others, under the direction of the defendant Gebhardt. (NO-228, Pros. Ex. 206, R. 767). The experimental subjects were predominately Polish women, some of whom were active in the resistance

movement. (Bracl-Later, R. 787; Karolewska, R. 816, Dzido, R. 890; Kusmierczuk, R. 857). They clearly did not volunteer. (Bracl-Plater, R. 789; Karl, R. 823; Dz. R. 845; Kus. R. 861, Magzka, R. 1451). The defendants Fischer and Operheuser admitted that at least three persons died as a result of the experiments. (NO-477, Pros. Ex. 207, R. 778; NO-487, Pros. Ex. 208, R. 780). Other evidence, however, proves that five of the subjects died as result of the experiments and six were executed later. (Dz. R. 845; Kus. R. 862).

A full report on the sulfanilamide experiments was given by Gebhardt and Fischer in the Third Meeting of the Consulting Physicians of the Wehrmacht, held from 24 to 26 May 1943 at the Military Medical Academy in Berlin. Karl Brandt was one of the honored guests at this meeting and he heard the lectures by Gebhardt and Fischer. (Brandt, R. 2368). Gebhardt testified that he insisted on making a complete report on these experiments at the meeting; that there was considerable discussion about the content of the lecture with the person in charge of the program for the meeting; that he remembered this person to have been the defendant Rostock but that since Rostock denied it, it might have been Schreiber; that the program for the meeting listed his lecture under the title "Special Experiments", that this indicated he was trying to show something unusual; and that the whole subject was discussed with Rostock or Schreiber during the arrangements for the meeting of May 1943 (R. 4103-6). There had been continuous correspondence concerning the experiments between Gebhardt, Grawitz, and Rostock or Schreiber. Grawitz had a complete report on the experiments when he negotiated with Rostock or Schreiber. (R. 4107). Gebhardt testified quite clearly to the effect that he was opposed to any camouflage and that he was

Anxious to bring the whole subject of these experiments into the open. When he gave the introduction to the lecture by Fischer, he specially stated that the experiments had been carried out on human beings. (R. 4109). Gebhardt does not definitely remember, according to his testimony, whether he said the experimental subjects were concentration camp inmates. The defendant Fischer has stated that this was made clear. (NO-472, Pros. Ex. 243, R. 941; cf., Fischer R. 4365). Gebhardt stated that the clinical details of the experiments were explained in great detail. The meeting was told that 75 persons had been experimented on, that the infections had been artificially induced, that various drugs had been used in treating the infections, that surgical treatment was used, and that three persons died. (Gebhardt, R. 4109-10).

Brandt was informed about the sulfanilamide experiments even before the meeting in May 1943. Gebhardt testified that on an occasion prior to the meeting he met Rostock and Brandt in a railroad station, and that he discussed publication of the results of the experiments with them. (R. 4222). Gebhardt affirmed that during an interrogation of 5 November 1946, he stated that:

"I am sure I once told Brandt, without any order, that this anonymity of the whole matter is rather nonsensical. Now, he claims he cannot remember though, and I once told Rostock, 'Do you realize what we are reporting? I do not know what Grawitz wrote to you. I am telling you Himmler ordered this, and that concerned the question of sulfanilamide that is being done. These experiments are to be performed, but I give the scientific advice only because German science can make use of it.'"

Gebhardt was asked during the same interrogation whether it was made clear to Rostock and Brandt that the experiments were being made on prisoners and he replied, "Evidently". (R. 4222).

Having acquired knowledge, Brandt was not privileged to remain silent; he was under a duty to act. Brandt did nothing. He did not investigate the experiments; he did not voice any objection at the meeting; he did not ask for a report from the SS; he did not report to the Fuehrer. He took a "consenting part" in this criminal use of helpless concentration camp inmates. In view of his personal experience with German justice, he now admits that hundreds of thousands of concentration camp inmates were unjustly incarcerated. (R. 2622). Concentration camp conditions were not strange to Brandt as he concedes having visited Sachsenhausen, Oranienburg, Mauthausen, and Natzweiler. (R. 2622).

Even though it be assumed that the experiments were completed at the time Brandt obtained knowledge, his inactivity constitutes him an accessory after the fact. But such was not the case. As late as August, 1943, six Polish women were experimentally operated on by force in the bunker at Ravensbruck. (NO-864, Pros. Ex. 222, R. 923). These persons could have been saved torture and mutilation if one man of authority had objected at the meeting in May, 1943. Moreover, an investigation of the sulfonilamide experiments would have brought to light the bone, muscle, and nerve experiments (Indictment, Par. 6(F) conducted by the same persons at the same place. Instead, four days later, Brandt was requesting concentration camp inmates for epidemic jaundice experiments. (See, infra.).

B. EPIDEMIC JAUNDICE EXPERIMENTS (Indictment, Par. 6 (H))

Following the attack on Russia, epidemic jaundice (hepatitis epidemica) became a disease of major proportions in the German Wehrmacht. (Gutzeit, R. 2707). In some units,

casualties up to 60% were reported from this disease. (NO-010, Pros. Ex. 187, R. 735). Accordingly, an intensive effort was made to discover the causes of and inoculations against epidemic jaundice. Dohmen and Gutzeit of the Army Medical Inspectorate and Haagen of the Medical Service of the Luftwaffe were among the doctors working on this subject.

Dohmen was one of the first to isolate a virus which was claimed to be the cause of jaundice. This was accomplished by inoculating animals with germs taken from human beings suffering from the disease. (Gutzeit, R. 2695). However, considerable divergence of opinion still existed as to whether jaundice was caused by bacteria or a virus. (Gutzeit, R. 3045). On 1 June, 1943, Grawitz - Reich Physician of the SS - asked Himmler's consent to placing concentration camp inmates at the disposal of Karl Brandt for jaundice research. He stated in his letter that Brandt was supporting the work of Dohmen and it was thought necessary to infect human beings with a jaundice virus cultivated in animals. Grawitz advised that cases of death among the experimental subjects were to be anticipated. (NO-010, Pros. Ex. 187, R. 735). Considerable stress by the defense has been put on the contention that jaundice is not usually a fatal disease. Be this as it may, Grawitz did not state whether the deaths were to be brought about for purpose of performing autopsies (as in the case of the high altitude experiments) or whether they were to be expected from the disease itself (as in the case of the typhus experiments).

Himmler consented to the use of 8 Polish Jews who had been condemned to death in the Auschwitz Concentration Camp. (NO-011, Pros. Ex. 188, R. 737). The experiments were carried out by Dohmen in the Sachsenhausen Concentration

Camp, and some of the victims died as a result. (NO-371, Pros. Ex. 186, R. 733). Even the defense witness Gutzeit admitted that Dohmen worked in Sachsenhausen, but states that this was merely a ruse to avoid turning over the jaundice virus to Grawitz and, in reality, no infection experiments were performed. It was not explained by the witness why his collaborator Dohmen, who was not a member of the SS and in no way subordinated to Grawitz, should have engaged in such ridiculous scientific "horse play". (Gutzeit, R. 2758).

Moreover, Brandt was implicated in the jaundice experiments by Haagen and Dohmen in 1944. These are described in the Prosecution's brief on Handloser. At a meeting with representatives of the Wehrmacht and Reich Research Council on 26 August 1944, Rostock as Chief of the Office for Science and Research designated as "urgent" the research of Haagen on hepatitis epidemica. (NO-692, Pros. Ex. 457, R. 3408).

C. TYPHUS EXPERIMENTS (Indictment, Par. 6 (J))

The attack against Russia in 1941 gave rise to many military medical problems, not the least of which was typhus. The disease reached serious proportions in the fall of 1941 and typhus vaccine was so scarce that only doctors, nurses, and other personnel in exposed positions could be given protective inoculations. (Schmidt, R. 3160-1).

To alleviate the shortage of vaccine, Handloser, as Army Medical Inspector, recommended that production be placed in the hands of the large scale pharmaceutical industry. (NO-1323, Pros. Ex. 452, R. 3082). Two basic types of vaccine were produced on a substantial scale: The Weigl vaccine from the intestines of lice by the

Typhus and Virus Institute of the OKH at Gracow (and later Lemberg) and the Cox, Gildemeister, Haagen vaccine from cultures in chicken eggs by the Behring works of I.G. Farben at Marburg and the Robert Koch Institute in Berlin. The Weigl vaccine had long since proved its value but the efficiency of the egg vaccine was not established. (NO-732, Pros. Ex. 451, R. 3060). At a conference on 29 December 1941 participated in by Handloser, Conti, Gildemeister, and Mrugowsky, it was decided to determine the effectiveness of the egg vaccine by experiments on human beings. (NO-265, Pros. Ex. 287, R. 1134; compare Handloser's statement, NO-732, supra).

As a result of this decision, the experimental station in the Buchenwald Concentration Camp was established and experiments to test the effectiveness of various vaccines by artificially infecting inmates, without their consent, were performed from January 1942 until early in 1945. (Kogon, R. 1154 et seq.).

The problem of typhus vaccine production and allocation was obviously a matter within the jurisdiction of Brandt after his appointment as General Commissioner by the Fuehrer Decree of 28 July 1942. A clearer case of coordination of material cannot be found. Handloser, had primary control over vaccine distribution. (Handloser, R. 3074, 3090; compare the testimony of Schroeder, R. 3642, 3643). Both Handloser and Conti were required to report on basic events to Brandt. Since production of the egg vaccine was dependent on research to determine its effectiveness, the two cannot be divorced.

The Buchenwald experiments were reported on by Dr. Ding-Schuler at the meeting of the Consulting Physicians of the Wehrmacht in May 1943. (NO-923, Pros. Ex. 436, R. 2063).

Brandt admitted his presence at this meeting. (Brandt, R. 2367-8). While Brandt may not have heard the report itself since it was delivered to the section on hygiene, there can be no reasonable doubt that he heard of it. Rose raised objections to the character of the Buchenwald experiments and this was surely a matter which went beyond the walls of the lecture room. Kogon testified that Ding was furious about Rose's attack. (Kogon, R. 1176). Moreover, the affiant Arthur Dietzsch, kapo in the experimental station at Buchenwald, stated that Ding told him that Brandt had visited Buchenwald. (NO-1314, Pros. Ex. 433, R. 2040).

Dr. Eugene Haagen, Hygienist for Air Fleet "Reich" and a medical officer of the Luftwaffe, also conducted typhus experiments on inmates of the Natzweiler Concentration Camp. (Schmidt, R. 1368 et seq.). These experiments were carried out for the Luftwaffe and the Reich Research Council. (NO-129, Pros. Ex. 308, R. 1403; NO-157, Pros. Ex. 189, R. 737). Rostock admitted that the office for Science and Research received a copy of Haagen's report to the Reich Research Council, which was Doc. NO-138, Pros. Ex. 300. (Rostock, R. 3311). The typhus research of Haagen was classified urgent at a meeting of the Office for Science and Research in August 1944 attended by Rostock and members of the Reich Research Council and the Wehrmacht. (NO-692, Pros. Ex. 457, R. 3408; Rostock, R. 3409). Brandt was a member of the Reich Research Council and chief of Rostock (supra). See also the affidavit of Rudolf Brandt, (NO-370, Pros. Ex. 294, R. 1385).

D. Gas Experiments (Indictment, Par. 6 (D))

The treatment of wounds caused by chemical warfare agents was of considerable interest in military medical circles of Germany. On 1 March 1944, the Fuehrer gave Karl Brandt broad powers in the field of chemical warfare. (NO-012, Pros. Ex. 270, R. 1038). The decree itself is not available, but there is no dispute that Brandt's jurisdiction extended to pharmaceutical products to treat gas wounds. So much he admits. (L. 2629). This necessarily involved a determination of the most effective method of treatment. That the decree included medical research on gas wounds can also be concluded from the fact that copies of the decree which Brandt sent to Himmler (NO-012, Pros. Ex. 270, R. 1038) were forwarded to Grawitz and Sievers who had previously worked on this problem. (NO-013a, Pros. Ex. 271, R. 1038; NO-013b, Pros. Ex. 272, R. 1039).

In any event, on 31 March 1944, Sievers reported to Brandt about the research activities of Hirt. (NO-015, Pros. Ex. 275, R. 1039). Hirt had been experimenting on inmates of the Natzweiler Concentration Camp since November 1942. (NO-098, Pros. Ex. 263, R. 1026). For a detailed description of Hirt's experiments, see the brief against Sievers. Brandt admitted that Sievers gave him the written report by Hirt, which was introduced as Prosecution Exhibit 268 (NO-099, R. 1035), and that this report shows on its face that experiments on human beings were performed by him. (Brandt, R. 2626). It is significant to note that the report speaks of heavy, medium, and light wounds caused by Lost. Moreover, Brandt admitted he talked to Hirt in Strassbourg in April after the meeting with Sievers. (R.2610). Approximately 220 inmates of Russian, Polish, Czech, and German nationality were experimented on with gas, of whom about 50 died. They did not volunteer (Holl, R. 1052, 1057). Hirt continued his gas experiments

at Natzweiler during the summer of 1944. (Holl, R. 1058). His gas research was classified "urgent" by Rostock in August 1944. (NO-692, Pros. Ex. 457, R. 3408).

In addition to his participation in the gas experiments of Hirt, Karl Brandt personally furthered the criminal experimentation of Otto Bickenbach. Brandt testified that the gas experiments of Bickenbach came to his attention in the fall of 1943 on the occasion of a visit to Strassbourg to see a cyclotron; that later he helped him to arrange a laboratory; that he assisted him in obtaining experimental animals; that Bickenbach did not conduct experiments on human beings; that he helped him in 1944 after he had established this laboratory. (R. 2619, 2620).

The Sievers' Diary for 1944 contains the following entry under 2 February:

"Met Prof. Bickenbach in Karlsruhe, and he advises that he has put his research work under the control of General Commissioner Prof. Dr. Brandt.

"Discussion with SS Hstuf. Hirt:
1. Prof. Dr. Bickenbach, without instructions from Hirt and Prof. Stein, contacted General Commissioner Prof. Dr. Brandt concerning the Phosgene experiments and was in Natzweiler with him. Commission is to be withdrawn, for our part Natzweiler is to be closed." (3546-PS, Pros. Ex. 123, R. 2629).

Phosgene is a chemical warfare agent. (Brandt, R. 2630). Brandt admits he was in Natzweiler, but insists that only animal experiments were conducted. (R. 2630). This is in direct contradiction to statements contained in an official war crimes report of the Government of the Netherlands. (NO-1063, Pros. Ex. 328, R. 1498, see the statements of Neles and Roessingh). Josef Kramer, former camp commander at Natzweiler, also stated that Bickenbach experimented on prisoners. (NO-807, Pros. Ex. 185, R. 732).

Brandt testified that he later assisted Bickenbach in establishing a laboratory in Fort Franzeky, which is near Strassbourg, and that he saw animal experiments there. (R. 2630). Bickenbach was a professor at the University of Strassbourg with Hirt and Haagen. (R. 2631).

The Bickenbach reports sent to Karl Brandt not only prove that Bickenbach and his collaborators Helmut Ruhl and Fritz Letz carried out phosgene experiments on 40 Russian prisoners of war, but that four of the subjects were killed as a result. (NO-1852, Pros. Ex. 456, R. 3406). This document completely destroys the credibility of the defendant Brandt.

These reports on the phosgene experiments are designated top military secret and are numbered 2, 3, 4, 5, 6, and 7. They are all addressed to Commissioner General Brandt. These reports obviously cover the same series of experiments which culminated in experiments on 40 prisoners detailed in the 7th report. They were found in the apartment of Professor Bickenbach by French authorities. The purpose of these experiments was to determine the effectiveness of a drug called hexamethylentetramin against phosgene poisoning. Certain preliminary studies are detailed in the 4th report, dated 11 August 1944, and mention is made of tests carried out on a "nervous Russian prisoner of war, who could not be calmed down because of language difficulties.."

The 7th report, which is undated, concerns experiments carried out shortly after 11 August 1944 (the date of the 4th Report) as Strassbourg was over-run by the Allies a few months later. These experiments were performed on "40 prisoners on the prophylactic effect of hexamethylentetramin in cases of phosgene poisoning. Twelve of those were protected orally, 20 intravenously and 8 were used as controls." On the basis of the 4th report, it can only

be concluded that the 40 prisoners referred to were Russian prisoners of war. The experimental subjects are further described as being "persons of middle age, almost all in a weak and underfed condition. On principle, the healthier were used as control, only control number 39 (J. Rei.) and the orally protected experimental subject No. 37 (A. Rei.) had a localized cirrhotic productive tuberculosis of the lungs. With the others, no pulmonary disease could be found." (R. 3401).

The experimental persons were subjected to phosgene poisoning with resulting death to no less than four subjects. (See Table II and III attached to the 7th Report, R. 3404). Other subjects suffered severe lung oedema.

Defense counsel for Karl Brandt urged the possibility that this report was not received by him. Assuming arguendo that the report was not mailed to Brandt, and, if received, not read, the fact remains that the experiments were performed by Bickenbach and his collaborators, whose work was directly controlled by Brandt. (Supra). Were there no other evidence on this point, the circumstance of the report having been addressed to Karl Brandt is sufficient proof of his responsibility. Moreover, the research of both Bickenbach and Hirt was classified urgent by Brandt's Office for Science and Research under Rostock. (NO-692, Pros. Ex. 457, R. 3408).

The continued interest of Brandt in research on chemical warfare agents and his knowledge of experiments on concentration camp inmates is shown by the report dated 31 March 1945 concerning experiments at the Neuengamme Concentration Camp. (NO-154, Pros. Ex. 446, R. 2638). Water decontamination experiments were carried out there on inmates. The report states that the "third series of experiments was carried out with an agent of the Lost group, the asphyxiating

gas lost, in accordance with the suggestion made by Oberstarzt Dr. Wirth at the conference on 4 December 1944 with Reichkommissar Dr. Brandt."

E. Other Experiments

The proof shows that other experiments on concentration camp inmates were performed with the knowledge of the defendant Karl Brandt.

(1) Sterilization Experiments (Indictment, Par. 6 I)).

By 1941, it was the accepted policy of the Third Reich to exterminate the Jewish population of Germany and the occupied countries. (I.M.T. Judgment, R. 16920 et seq). The defendant Brack describes this as an "open secret" in high party circles. (NO-426, Pros. Ex. 160, R. 527). Trained killers from the euthanasia stations were sent to the East to assist in the program. Indeed, the program itself was used in part to exterminate Jews in Germany. (See infra, under Euthanasia). Because of the pressing need for workers, sterilization of Jews and other so-called undesirable elements was considered as an alternative to outright extermination. X-ray sterilization was proposed to Himmler by Brack. Dr. Horst Schumann, formerly of the Grafeneck euthanasia station, was sent to the Auschwitz Concentration Camp to conduct experiments. Brack states that this could not have been done without the knowledge of Brandt, who was jointly responsible with Bouhler for the euthanasia program. (NO-426, Pros. Ex. 160, R. 527; see also the affidavit of Rudolf Brandt, NO-440, Pros. Ex. 141, R. 507). Moreover, Brandt admits visiting Grafeneck in 1940, although he does not expressly remember meeting Schumann. (Brandt, R. 2480-1). That X-ray sterilizations were actually carried out in Auschwitz is established by the heart-rending testimony of the young Polish Jew, Chaim Balicki, who, after being

subjected to severe X-ray burns, was castrated. (R. 541).

(2) Freezing and Malaria Experiments (Indictment, Par. 6 (B) and (C)).

The Prosecution relies primarily on the position of the defendant Brandt in connection with the charge of responsibility for the freezing and malaria experiments. The malaria experiments were conducted in Dachau from February, 1942 until 1945 by Dr. Klaus Schilling, formerly of the Robert Koch Institute and one of the most famous German scientists on tropical medicine. Over 1000 prisoners were used in these experiments and several hundred died as a result. (NO-856, Pros. Ex. 125, R. 392). It is not to be expected that such a matter went unnoticed in higher medical circles.

The cruel and murderous freezing experiments in Dachau were the subject of two frank reports by Holzloehner, who conducted the experiments with Rascher and Finke, to large groups of military physicians. The first occasion was at a meeting in Nurnberg on cold problems held on 26 and 27 October 1942. This meeting was sponsored by the Luftwaffe, but representatives of other branches of the Wehrmacht were present. (NO-401, Pros. Ex. 93, R. 309). The report by Holzloehner caused something of a sensation as it was made clear that concentration camp inmates were used as subjects and some of them died. (Lutz, R. 272). The second lecture by Holzloehner on the freezing experiments was given at the meeting of Consulting Physicians of the Wehrmacht, called by the defendant Handloser, held at the Military Medical Academy from 30 November to 3 December 1942. Handloser heard Holzloehner speak as the report submitted in evidence shows that he commented on the lectures on cold problems. (NO-922, Pros. Ex. 435, R. 2059). He was under a duty to report such "basic events" to Brandt. (supra).

(3) Seawater Experiments (Indictment, Par. 6 (G)).

As to the seawater experiments conducted by the Luftwaffe in Dachau in 1944, it is sufficient to refer to Schroeder's statement that Brandt, Kestock, and Handloser were informed of medical research carried out by the Luftwaffe. (NO-449, Pros. Ex. 130, R. 471).

(4) Miscellaneous.

Other documents prove that the defendant Brandt not only knew of the systematic use of concentration camp inmates for medical experimentation, but even suggested such experiments himself. His request for inmates for jaundice experiments has already been discussed. On 26 January 1943, he wrote to SS-Obergruppenfuehrer Wolff, chief liaison officer between Himmler and the Fuehrer's headquarters, and asked if it were not possible to carry out nutrition experiments in concentration camps. (NO-1419, Pros. Ex. 447, R. 2641).

On 30 September 1943, Grawitz wrote to Himmler stating that Karl Brandt had requested him to test a new ointment for the treatment of phosphorous burns. Grawitz asked permission to test the drug by artificially creating burns on experimental inmates in Sachsenhausen (Oranienburg). Testing the drug on German civilians burned in air raids was considered too slow. Consent for these experiments was given on 7 October 1943. (NO-1620, Pros. Ex. 449, R. 2643).

It is not without significance that the experiments during which inmates were burned with phosphorous from an incendiary bomb were carried out in Buchenwald beginning on 19 November 1943. (NO-265, Pros. Ex. 287, R. 1127; Kogon, R. 1187-90). There is little doubt that the situs of the experiments proposed by Brandt was changed from Sachsenhausen to Buchenwald. The experimental victims suffered excruciating pain. (Kogon, supra).

On 4 February 1944, the defendant Rudolf Brandt wrote to a member of Himmler's personal staff in Berlin (Baumert) stating that Karl Brandt had asked for 10 prisoners at Oranienburg to test a certain medicine. Karl Brandt had discussed these experiments with Grawitz. The prisoners were made available. (NO-1382, Pros. Ex. 448, R. 2644).

Finally, the proof shows that medical experiments on concentration camp inmates was carried out on such a broad scale that it had come to the ears of Keitel, Chief of the High Command of the Wehrmacht. A memorandum dated 23 February 1944, signed by Klieve of the Army Medical Inspectorate, shows that experiments on human beings were proposed by the defendant Blome in connection with biological warfare. The memorandum states that: "By request of Field Marshal Keitel, the armed forces are not to have a responsible share in the experiments since experiments will also be conducted on human beings." (NO-1309, Pros. Ex. 326, R. 2615). It hardly lies in the mouth of the defendant Brandt to deny knowledge of such experimentation when it was known to Keitel himself. The same document shows that Brandt was assisting Blome with the institute at Posen, where the experiments were carried out. See the Prosecution's brief on Handloser for a description of the biological warfare experiments.

III. THE EUTHANASIA PROGRAM (Indictment Par. 9 and 14).

A. Procedure

On 1 September 1939, Hitler charged the defendant Karl Brandt and Reichsleiter Bouhler with the execution of the Euthanasia Program. The letter of appointment stated:

"Reichsleiter Bouhler and Dr. Brandt are charged with the responsibility for enlarging the authority of certain physicians, to be designated by name, in such a manner that persons who, according to human judgment, are incurable can, upon the most careful diagnosis of their condition of sickness, be accorded the mercy death." (630-PS, Pros. Ex. 330, R. 1516).

This document in no way limited the application of euthanasia to insane persons but included anyone who might be designated as "incurable".

The witness Mennecke testified that the program was carried out in the following way:

Every German mental institution received form questionnaires from the Reichs Ministry of the Interior which were to be completed on each inmate of the institution and to be sent back to the Reichs Ministry of the Interior. Then experts had to examine the questionnaires after they had been photostated. They had to express their medical opinion on them and had to return them, with their opinion, to the Reichsarbeitsgemeinschaft (Reichs Association). (R. 1872, 1873).

This Reichsarbeitsgemeinschaft cooperated with the "Stiftung", (Charitable Foundation for Institutional Care), and the Patients Transport Corporation. The "Stiftung" was in charge of the financial side of the program, while the Patients Transport Corporation was used when

patients were moved from one institution to another in order to bring them closer to the euthanasia institutions and, finally, into the euthanasia institutions themselves. These three organizations, Reichsarbeitsgemeinschaft, "Stiftung", and Patients Transport Corporation, were in fact camouflaged names for the operation of the Euthanasia Program and were under the supervision of one management. They did not work independently but together. (R. 1874).

As to the questionnaires, three experts received photostated copies and, independently of each other, they expressed their opinion on individual cases. Then so-called top experts expressed their opinion. A list was made up of the patients who were judged subject to euthanasia and the patients were removed from the institution to so-called collecting points and from there were transferred to euthanasia institutes. (R. 1877, 1878). Non-German nationals and Jews were subjected to euthanasia as well as Germans. (R. 1881, 1923).

The activities of the experts were extended, in early Summer of 1940, to inmates of concentration camps. A Doctors Commission, which consisted of doctors and officials from the Euthanasia Program, filled out the questionnaires on inmates from among those who had been preliminarily selected by the camp doctors. Numerous concentration camps were visited, some of them twice, in the period between 1940 and the end of 1941. (R. 1882, 1883.) Dr. Mennecke, who visited a number of concentration camps to select inmates, received the orders for these activities from the top experts in the Euthanasia Program and from the defendant

Brack. (R. 1882). Announcements about these trips were made from the Berlin agency of the Program to the individual concentration camps. (R. 1885). Non-German nationals and Jews, who were inmates of concentration camps, were subjected to the Euthanasia Program in extensive numbers. (R. 1887).

Another function of the Euthanasia Program was the killing of mentally and bodily deficient children. The witness Walter Schmidt testified that the agency which handled this part of the Program was called the Committee for Research on Hereditary and Constitutional Diseases. (Reichsausschuss zur Erforschung Erb-und Anlagebedingter Schwerer Leiden). The questionnaires were filled out by the Health Departments, the Chief of Children's Clinics, physicians, doctors, midwives and hospitals, etc., and reports were made to Dr. Linden's office in Berlin. Linden was a member of the Ministry of Interior. There a committee of chief experts, on the strength of these reports, decreed euthanasia through so-called authorizing orders in the form of a photostatic copy of the report, which had been approved in writing. These activities continued until 1944. (R. 1834). Schmidt himself was in charge of a special department for the killing of such deformed children. (R. 1833).

Workers from the occupied Eastern territories who had become unfit for labor were executed pursuant to the Euthanasia Program. Buses belonging to the Patients Transport Corporation, which were operated by the personnel of the Patients Transport Corporation, took these victims to the extermination center of Hadamar, where they were killed. (Schmidt, R. 1842-1845; U. S. v. Klein, et al., NO-1116, Pres. Ex. 415, R. 1781).

This evidence on the method of carrying out the program is corroborated by the affidavit of the defendant Brack (NO-426, Pres. Ex. 160, R. 527), the affidavit of Pauline Kneissler (NO-470, Pres. Ex. 332, R. 1534), the chart drawn by Brack NO-253, Pres. Ex. 331, R. 1523), as well as numerous other documents in the record.

The evidence concerning the activities of the top experts and experts of the Euthanasia Program in the various concentration camps is corroborated by the affidavit of the camp doctor of the Dachau Concentration Camp, Dr. Muthig, (NO-2799, Pres. Ex. 497, R. 7710), who states that in the Fall of 1941, Prof. Heyde, as leader of a commission of four psychiatrists, came to the Dachau Concentration Camp. This doctors' commission selected inmates unable to work for extermination by gas. Heyde was the first top expert of the Euthanasia Program. (Brandt, R. 2495). The affidavit of Dr. Gorgass reveals that he and Dr. Schumann, both of whom were active in the Euthanasia Program, visited the Buchenwald Concentration Camp in June 1941. Gorgass states explicitly that the purpose of this trip was to acquaint himself with the assignment of concentration camp inmates to euthanasia institutions. This visit was made on the order of Brandt, which was transmitted by the defendant Brack. (NO-3010, Pres. Ex. 503, R. 7734).

B. Non-German Nationals and Jews

Non-German nationals and Jews, who were inmates of the concentration camps, were victims of the Euthanasia program which operated in these camps under the code name "14 f 13". (NO-429, Pres. Ex. 281, R. 1083).

A few documents submitted by the prosecution on one "14 f 13" action in Gross-Rosen show how the Euthanasia Program operated in concentration camps. The list of concentration camp inmates of the Gross-Rosen Concentration Camp who were sent to the Euthanasia Station Bernburg for extermination, contains many names of non-German nationals and non-German Jews. (NO-158, Pres. Ex. 410, R. 1724, 1725). Jews in protective custody, Poles in protective custody, Jews who were habitual criminals, Jews who were "shirkers", Jews who defiled the race, Czech "shirkers", and Czechs in protective custody, were among the inmates selected by the camp physicians for "examination" by the experts. (1151-PS, Pres. Ex. 411, R. 1738).

By comparing the names on the lists contained in Doc. NO-158 and 1151-PS, it is proved that, of the 240 names listed for extermination in the Euthanasia Station Bernburg, at least 51 were of Polish or Czechoslovakian nationality. How many of the Jews listed were of non-German nationality cannot be ascertained from these documents, but a substantial number of them were born in countries other than Germany, as the list contained in Doc. NO-158 shows, and it is therefore apparent that a further substantial number of the inmates selected for extermination were of non-German nationality. (NO-158, Pres. Ex. 410; 1151-PS, Pres. Ex. 411, R. 1738-1739).

On 17 March 1942, 70 inmates were transferred to Bernburg for extermination. (NO-1873, Pres. Ex. , R.). Of these, 27 of the non-Jewish prisoners on the transport list were of Czech or Polish nationality. (Compare transport list with list of inmates originally selected in Gross-Rosen,

1161-PS, Pros. Ex. 411, R. 1725). On 19 March 1942 an additional 57 inmates arrived at Bernburg from Gross-Rosen. (NO-158, Pros. Ex. 410, R. 1723). Of these, 15 of the non-Jewish prisoners of the transport list were of Czech or Polish nationality. Thus, of the total of 127 inmates proved to have been sent to Bernburg in March 1942, at least 42, or one-third of the total, were non-German citizens forcibly detained in an enemy country. That all of these inmates were exterminated in Bernburg is conclusively proved by the laconic report from Gross-Rosen to the Economic and Administrative Main Office that "special treatment of 127 prisoners was concluded on 2 April 1942." (1234-18, Pros. Ex. , R.)

This evidence as to Action 14 f 13 is amplified by the testimony of the witnesses Neff (R. 600-605), Kogon (R. 1210-13), Roemhild (R. 1634-37, 1641), and Holl (R. 1060).

Non-German nationals and Jews other than those in concentration camps were not exempt from the program, and many of them were killed. Beside the evidence cited under sub-section A above, there is ample proof that non-German nationals were subjected to extermination from the beginning of 1940 through the war, (NO-1135, Pros. Ex. 334, R. 1543; NO-818, Pros. Ex. 373, R. 1609). Jews of German and Polish nationality and Stateless Jews were also subjected to the program. (NO-1310, Pros. Ex. 337, R. 1550). Polish and Russian nationals and other non-German nationals were subjected to the program. (NO-720, Pros. Ex. 366, R. 1591-2).

The questionnaires had a space provided for "race", being defined: German or similar blood (of German blood), Jew, Jewish mixed breed Grades 1 or 2, negro (mixed breed). (1696-PS, Pros. Ex. 357, R. 1574). This question would have

been completely unnecessary if non-Germans were exempted from the program. Questionnaires had to be filled out about all patients who were not of German nationality or German related blood, indicating their race and nationality. (NO-825, Pros. Ex. 358, R. 1578). These questionnaires had to be processed by the experts. (Mennecke, R. 1881). Those who were active in euthanasia never received an order that non-German nationals were to be excluded from the program. (NO-817, Pros. Ex. 368, R. 1595). The witnesses Mennecke (R. 1877, R. 1922) and Schmitt (R. 1860-1) also testified to this effect. Hugo Suchomel, LL.D., the highest official after the Minister in the Austrian Federal Ministry of Justice, says in his affidavit that when Brack, as representative of the defendant Brandt, gave a lecture on euthanasia in the Ministry of Justice in 1942, he enumerated, as the classes of persons who were exempted from the program, the war wounded and persons who had become insane as a result of air attacks. Foreigners and Jews were not mentioned among the groups of persons who were excluded. (NO-2253, Pros. Ex. , R.) Brack admits having held the lecture. (R. 7589).

As early as 1939 inmates of insane asylums in occupied Poland were killed. (3816-PS, Pros. Ex. 370, R. 1598). In the Autumn of 1940, funds for the evacuation of 1558 inmates of mental institutions of East Prussia and approximately 250 to 300 insane Poles were made available by the defendant Brack, who was the administrative executive of the Euthanasia program. As these transfers were carried out by a special department (Sonderkommando) of the infamous SD, which was used for special tasks, there is no doubt that

these insane Poles were killed. (NO-2909, Pros. Ex. 500, R. 7721; NO-2911, Pros. Ex. 501, R. 7722). In September 1941, an order was issued that the inmates of the insane asylums in Russia, in the occupation zone of the German Army Group "Nord", were to be killed. (NO-1758, Pros. Ex. 444, R. 2545).

Eastern workers were also dealt with. (NO-1430, Pros. Ex. 429, R. 1950-1); NO-1436, Pros. Ex. 430, R. 1941). Eastern workers, who had been forcibly brought into Germany, who were no longer able to work, and who were considered a burden on the mental institutions of Germany, were brought together in a collecting institution and, unless they could be discharged in a matter of six weeks, they were exterminated under the Euthanasia Program. (NO-891, Pros. Ex. 414, R. 1779; NO-1116, Pros. Ex. 415, R. 1781). Half Jewish healthy children (NO-1427, Pros. Ex. 431, R. 1952) and adult Gypsies (3882-PS, Pros. Ex. 371, R. 1602) were also killed.

C. Inadequate Examination and Lack of Supervision

The selection and examination of the persons who were subjected to euthanasia was criminally negligent and inadequate.

The defendant Karl Brandt testified that the doctors in the Euthanasia Program were given enormous responsibility (R. 2425). He, together with Buehler, had authority over the physicians who were participating in the program. (Brandt, R. 2408). He admitted however, that he did not make observation in, or visits to, insane asylums. He was only once in the Insane Asylum Bethel and visited a special clinic in Kassel. He admitted having no expert knowledge in the field of psychiatry. (R. 2470). He, the doctor of the

two persons who were charged by Hitler with the execution of euthanasia (Buhler was not a doctor), authorized the doctors to administer euthanasia. He did not make investigations as to the medical abilities of these men. (R. 2476). He does not know one single name of the total of ten to fifteen doctors who, according to his testimony, were charged with the execution of euthanasia. (R. 2478-9). Brandt testified that he only visited one of the extermination stations, Grafenek, in 1940, one time (R. 2480) and never went to an observation station. (R. 2481). In winter 1939/1940, however, he visited, together with the defendant Brack, Buhler and Conti, the Euthanasia Station Brandenburg, where the first gas chamber was set up. The purpose of this visit was to observe a test experiment in which four insane persons were gassed. (Brack, R. 7645-6).

Victims of euthanasia were condemned to death by so-called top experts who had never so much as seen the patient. The victims were only superficially examined on the basis of questionnaires. (NO-470, Pros. Ex. 332, R. 1535-6). Pfannmueller, an expert, received no less than 159 shipments of questionnaires, averaging between 200 and 300 questionnaires each, prior to 15 April 1941, for judgment as to life and death. (NO-1129, Pros. Ex. 355, R. 1572; NO-1130, Pros. Ex. 355, R. 1572). Since his main occupation was that of manager of an insane asylum, his judgment of the questionnaires was only a secondary activity. In a period of 18 days, this same expert passed judgment on no less than 2,058 questionnaires. (NO-1129, supra; cf. Pfannmueller R. 7384).

Questionnaires on patients who were in an asylum for as short a time as one month were filled out and formed the basis for judgment as to whether the particular inmate should be killed. (NO-825, Pros. Ex. 358, R. 1577-8). Many of these questionnaires were inadequately completed so that it was impossible in any event to form a clear medical opinion. Experts were also exposed to pressure to induce them to give positive opinions. (Mennecke, R. 1881). Unanimous opinion of the experts was not necessary to bring about a positive judgment which would condemn the patient to be killed. The dissenting opinion of one expert did not suffice to save the life of the patient. (Mennecke, R. 1907-8).

In a concentration camp 105 Aryans were "examined" by the expert Mennecke in an afternoon. The "examination" of 1200 Jews, which consisted in the transcription of the reason for their arrest from the files to the reports, took only a few days. In a letter to his wife, Mennecke himself put the word "examination" in quotation marks. It is impossible that any kind of mental examination of the patients was carried out. (Mennecke, R. 1892; NO-907, Pros. Ex. 412, R. 1747). In fact, these Jews were mentally and physically healthy. (Mennecke, R. 1893). It was impossible for Dr. Heyde and his doctors' commission, which was active in the Dachau Concentration Camp, to examine the great number of inmates selected in the short time they spent there. The examination consisted solely in the cursory study of personal records in the presence of the inmate. (NO-2739, supra). Doctors Schumann and Gorgass screened approximately 100 concentration camp inmates during a one day's visit in the

Concentration Camp Buchenwald. (NO-3010, supra).

It was not the degree of insanity which was the decisive factor in the decision as to whether or not the inmates should be killed, but rather their usefulness for work. The manner of employment, the value of work, if possible compared with average performance of healthy persons, had to be carefully filled out in the questionnaires. (1696-PS, Pros. Ex. 357, R. 1575). Valuable workers were not sent to euthanasia stations. (3865-PS, Pros. Ex. 365, R. 1589). Patients who had arteriosclerosis, tuberculosis, cancer and other disabling illnesses were included in the Program. (3896-PS, Pros. Ex. 372, R. 1608). "Useless eaters" were starved to death. (3816-PS, Pros. Ex. 370, R. 1599; 1600; NO-823, Pros. Ex. 399, R. 1697). Persons who no longer had any value to the State were considered "useless eaters". It was pointed out that during the war healthy people had to give up their lives while these severely ill people continued to live and would continue to live unless euthanasia was carried out. In addition, it was stated the lack of food and nursing personnel justified the elimination of these people. (Mennecke, R. 1906). Concentration camp inmates were examined as to their capacity for work and their political reliability and were selected accordingly for euthanasia. (NO-2799, supra). Questionnaires were completed on concentration camp inmates who were not insane. (NO-3010, supra). Prior to 27 April 1943, Action 14 of 13 encompassed the execution not only of insane persons, but persons suffering from tuberculosis, bedridden individuals, and others unfit for manual work. (NO-1007, Pros. Ex. 413, R. 1753). Only inmates who were no longer fit for work were

to be brought before the examining commission. (NO-1151, Pros. Ex. 411, R. 1744).

In the case of killing of children, a previous consultation with the parents or relatives did not take place. (3864-PS, Pros. Ex. 367, R. 1593). The defense witness Pfannmueller testified that, after having received authorization to kill the individual child, he invited the relatives to visit the child because it was sick. However, he never notified the parents or guardians that he was going to kill the child as this was a top secret matter. (Pfannmueller, R. 4394). From the documents submitted by the defendant Brack, it is clear that the parents were deceived about the purpose of the transfer of the children to institutions where they were to be killed. It was the business of the medical officers to induce the parents to send their children to such institutions. To accomplish this, the parents were told that in the case of individual diseases there was a possibility of achieving certain successes with treatment. (Brack Doc. 52, Brack Ex. 43, R. 7678, cf. Brack, R. 7717). The parents were told that the best care would be taken of the child in such institutions and everything possible in the way of modern therapy would be carried out. (Brack Doc. 51, Brack Ex. 42, R. 7678). From these documents it is clear that the parents and relatives were not only not asked for their consent in the case of killing of children, but were deceived in order to make the transfer to a euthanasia institution possible. A letter from the Reichs Committee for Research on Hereditary and Constitutionally Severe Diseases to the Eichberg Sanatorium shows on its face that, in the case of euthanasia of children, the consent of the parents was not

sought. (NO-390, Pros. Ex. 443, R. 2540-1). This evidence is corroborated by the affidavit of Dr. Suchomel (NO-2253, supra). The defendant Brack testified that the consent of the parents to the killing of children was an absolute prerequisite. The medical officers who made the arrangements for the transfer of the children to the killing stations were allegedly charged with the task of informing the parents and requesting their consent. This statement is in contradiction to Brack's own documents, which clearly show what the parents really were told, as well as the top secret character of the program. The proof has further shown that Pfannmueller himself was one of the doctors who had, according to the decree of the Minister of the Interior of 18 August 1939, to report deformed and deficient children. (NO-3355, Pros. Ex. , R.). He himself testified that he never informed the parents about the fate their children had to expect. (supra). Brandt admitted that in the case of killing of insane adults, the consent of the relatives was not requested and their opinion not heard. (R. 2427-8).

There is abundant proof that the German public was horrified by euthanasia and the manner of its execution. A police report stated:

"The wildest scenes imaginable are reported to have taken place as some of these people did not board the bus voluntarily and were therefore forced to do so by the accompanying personnel. There were people who were imbeciles and feeble minded and were said to have other epileptic illnesses as well, and whose upkeep the State and other Public Bodies up till now had to provide for completely, or at least for the greater part. People went so far as to formulate and disseminate more or less the following assertion: 'The State must be in a bad way now or it could not

happen that these poor people should simply be sent to their death solely in order that the means which until now have been used for the upkeep of these people are made available for the prosecution of the War." (D-906, Pros. Ex. 376, R. 1619-21).

D. General Extermination of the Jews

Personnel active in the Euthanasia Program also took part in the extermination of the Jews in the East, from about 1941 until the liberation of the Eastern Territories. Some time in the second half of 1941 a part of the personnel, who were until then executing the Euthanasia Program in Germany, was sent to Lublin and put at the disposal of SS Brigadefuehrer Globocnik in order to assist in the mass extermination of the Jews which was then common knowledge in the higher circles of the NSDAP. Among the doctors who assisted in the extermination of the Jews were Dr. Eberle and Schumann, both of whom had been previously active in the Euthanasia Program in Germany. All of this Brack admitted in his pre-trial affidavit:

"The order to send these men to the East could have been given only by Himmler to Brandt, possibly through Buehler."
(NO-426, Pros. Ex. 160, R. 531).

The connection between the "Stiftung" (Charitable Foundation for Institutional Care) and the extermination camps in Lublin was also known to the lower employees of the Euthanasia stations. (NO-470, Pros. Ex. 332, R. 1537). The witness Gorgass stated in his affidavit that Police Captain Wirth told him late in the Summer of 1941 that he had been transferred by The Foundation for Institutional Care (which was one of the code names under which the Euthanasia Program operated) to a euthanasia institute in the Lublin Area. (NO-3010, supra). The SS Judge, Dr. Morgen, who in-

investigated the Jewish extermination program in Lublin, testified before the International Military Tribunal that Wirth, having previously carried out the task of removing the incurably insane, was a specialist in mass destruction of human beings. The office from which Wirth obtained his orders was Berlin Tiergartenstrasse and among the people who were connected with this operation was Blankenburg. (NO-2614, Pros. Ex. 504, R. 7735-7737). Brack admitted that Wirth was an official of the Euthanasia Station Brandenburg. (Brack, R. 7733). Brandt visited Brandenburg in the winter of 1939-40. (Brack, R. 7645-6). The central office for the Euthanasia Program was set up in Tiergartenstrasse 4, and Blankenburg was Brack's deputy in the Euthanasia Program. (Brack, R. 7563, R. 7707).

The defendant Brack reported to Himmler about these activities on June 23, 1942, as follows:

"On the instructions of Reich-Leader Bouhler I placed some of my men - already some time ago - at the disposal of Brigadefuehrer Globocnik to execute his special mission. On his renewed request I now transferred additional personnel. On this occasion Brigadefuehrer Globocnik stated his opinion that the whole Jew-action should be completed as quickly as possible so that one would not get caught in the middle of it one day if some difficulties should make a stoppage of the action necessary. You yourself, Reichsfuehrer, have already expressed your view, that work should progress quickly for reasons of camouflage alone" (NO-205, Pros. Ex. 153, R. 533)

The affidavit of Kurt Gerstein, which also mentions Wirth, gives a vivid description of the horrible way in which the victims were killed by the thousands at order of Globocnik. (1553-PS, Pros. Ex. 428, R. 1799-1807).

In October 1941, Brack, the administrative head of the Euthanasia Program, forwarded plans whereby Jews who were unable to work should be exterminated by gas. He declared his readiness to send some of his assistants and especially his chemist, Kallmeyer, to the East where the necessary gassing apparatus could be easily manufactured. Eichmann, whom Hitler had charged with the extermination of the Jews, was in agreement with these plans. Consequently, there were "no objections to doing away with those Jews who are unable to work with the Brack remedy". (NO-3657 Pros. Ex. 507, R. 7744). Kallmeyer, who was charged with the manufacture of the gassing apparatus and equipment (supra), had been trained for this task in the Euthanasia Program. Previously he had been responsible for the proper operation of the gas chambers of the different euthanasia institutions. (Brack, R. 7743). According to Eichmann's own estimate, four million Jews were killed in extermination institutions. (NO-2737, Pros. Ex. 505, R. 7740).

E. LEGALITY

The evidence outlined above makes it clear that the Euthanasia Program can only be described as mass murder. This Tribunal is not called upon to define with juridical nicety what a State may lawfully legislate with respect to euthanasia. The Prosecution asks only that this Tribunal find, as other tribunals have already held, that there was no valid law in the Third Reich permitting euthanasia and that the execution of persons under the guise of euthanasia with the connivance and assistance of certain defendants in this dock, constituted the crime of murder - a War Crime and a Crime Against Humanity.

The first and foremost authority on the legality of

euthanasia as practiced under the Nazis is in the Judgment of the International Military Tribunal. It States:

"Reference should also be made to the policy which was in existence in Germany by the summer of 1940, under which all aged, insane, and incurable people, 'useless eaters', were transferred to special institutions where they were killed, and their relatives informed that they had died from natural causes. The victims were not confined to German citizens, but included foreign laborers, who were no longer able to work, and were therefore useless to the German war machine. It has been estimated that at least some 275,000 people were killed in this manner in nursing homes, hospitals and asylums, which were under the jurisdiction of the defendant Frick, in his capacity as Minister of the Interior. How many foreign workers were included in this total it has been quite impossible to determine." (R.1514,1515; Pages 16916-7, Official English Transcript of the I.M.T).

*** ****

"During the war nursing homes, hospitals, and asylums in which euthanasia was practiced as described elsewhere in this Judgment, came under Frick's jurisdiction. He had knowledge that insane, sick and aged people, 'useless eaters', were being systematically put to death. Complaints of these murders reached him, but he did nothing to stop them. A report of the Czechoslovak War Crimes Commission estimated that 275,000 mentally deficient and aged people, for whose welfare he was responsible, fell victim to it." (R. 1515; Page 17007, Official English Transcript of the IMT.)

These findings draw no distinction between German nationals executed under the Program and non-German nationals. These executions are described with word "murders" and constitute War Crimes and Crimes Against Humanity under the Charter and Control Council Law No. 10. This was one of the principal crimes which led to the judgment of guilty and the sentence of death against Frick.

The Review of the Deputy Theater Judge Advocate in the case of the U.S. vs. Klein, Wahlman, et al, held at Wiesbaden, Germany from 8 through 15 October 1945 is a clear precedent that the execution of non-German nationals pursuant to the Euthanasia Program was a crime. (NO-1116, Pros. Ex. 415, R. 1781). The defendants were there charged with the execution of some 400 persons of Polish

and Russian nationality, alleged to be suffering from incurable tuberculosis, at the Hadamar Euthanasia Station between July 1944 and April 1945. They were not charged with murdering German nationals and that issue was not considered. After taking judicial notice of the fact that foreign laborers were impressed for service in Germany, the Reviewing Authority held that the killings in issue were a violation of the international laws of war and of Article 46 of The Hague Convention. Three of the seven defendants were sentenced to death.

According to German law, euthanasia was nothing other than murder. Paragraph 211 of the German Criminal Code, in its old form read:

"Whoever kills a person wilfully will be punished by death for murder if the killing was premeditated."

In the new form, which was in effect from 4 September 1941 on, the section stated:

"The murderer will be punished by death.

"A murderer is one who kills a person out of sheer desire to murder, for the satisfaction of the sexual instincts, for covetousness or other vile motives; one who kills another maliciously or cruelly or by publicly dangerous means or to create the preconditions for another punishable action or to conceal such an action.

"Certain exceptional cases where capital punishment is not appropriate will be punished by life sentence."
(NO-705, Doc. Book 16, p. 122).

For expert commentaries on the legality of euthanasia, see NO-708, Doc. Book 16, p. 134; and NO-706, *ibid.*, p. 123.

The defense witness Hans Lammers, a German legal expert, testified that the Hitler letter to Bouhler and Brandt was not a law and that official legislation was necessary to legalize euthanasia. (R. 2672, 2679). The Reichs Minister of Justice, Guertner, on 24 July 1940, wrote a letter to Lammers informing him that, as the Fuehrer had refused to issue a law, it was necessary to discontinue immediately

the secret extermination of insane persons. (NO-832, Pros. Ex. 393, R. 1679). A copy of this letter was sent to Bouhler on 27 July 1940. (NO-833, Pros. Ex. 394, R. 1679, 1680).

During Brack's lecture in the Ministry of Justice, referred to in sub-section B above, the legal authorities present were completely misinformed about the extent of the program. From the remarks of the speaker, the impression was obtained that only a very limited circle of persons, at the utmost several hundred, throughout Germany, Austria and the Protectorate Bohemia and Moravia would be affected. The opinion created was that only very dangerous patients and delirious maniacs who might injure themselves would be subjected to the program. (NO-2253, supra). This obviously was done to quiet the misgivings of the persons present. Brack, when questioned as to whether, during the lecture, he gave an approximate number of persons who would be subjected to euthanasia, could or would not give any answer. Contrary, to the impression created during the conference in the Ministry of Justice, the defendants Brandt and Brack now admit that about 50 to 60 thousand people were killed in the Euthanasia Program in Germany and Austria alone. (Brandt, R. 2465; Brack, R. 7610).

Since the end of the war, German and Austrian courts have repeatedly held that the killing of persons of any nationality under the guise of euthanasia was in violation of the German Criminal Code and punishable as murder. The witnesses Schmidt and Mennecke who testified before this Tribunal had themselves been convicted by a German court for participation in the euthanasia program and sentenced to life imprisonment and death, respectively.

Before the District Court for Criminal Cases in Vienna, in July 1946, Dr. Ernst Illing was sentenced to death by hanging and Dr. Marianne Tuerk to ten years in the penitentiary for the putting to death of psychopathic children or children who were afflicted with hereditary diseases (so-called euthanasia). It is stated in the decision that Dr. Illing took over his job on July 1, 1942 with the order to take over the execution of the tasks put by the Reichs Committee. Both defendants admitted having participated in the death of about 2,000 cases in the period between July 1, 1942 and April 1945. Defendant Illing testified that he was called up by Hefelmann from the Chancellery of the Fuehrer and was given a typewritten sheet signed by Adolf Hitler to read, according to which the defendant Brandt had to put into effect and to work out administrative regulations for the painless killing (euthanasia) of incurable idiotic children. After examination and decision by a scientific medical committee, Dr. Brandt or the deputy designated by him would give the order in each individual case. Brandt was personally responsible to Hitler. The findings said then that such an order by Hitler would never have had the power of a law:

"It is true that Adolf Hitler on the decision of the 'Greater German Reichstag' (Grossdeutschen Reichstages) on 26 April 1942 was authorized to do everything 'which would serve to win the victory or to assist in winning it' (das zur Erringung des Sieges dient oder dazu beiträgt); particularly he was given the right to force, if necessary, every German to do his duty with all means which seemed appropriate to him and in case of violation of these duties to inflict the appropriate penalty without regard to any consideration that was merit especially to relieve such people of their office, rank, or position without taking the prescribed legal proceedings against them.

"Aside from the fact that these powers entrusted to the Chief of government in the light of its entire formulation was to refer to military matters only, the transfer of such a power to the chief of government is nothing

new in the history of the last decades. So, the Viennese Gemeinderat, for instance, on 22 September 1914, empowered the Mayor to issue all ordinances and regulations necessary for the administration on his sole responsibility, since a regular functioning of the Gemeinderat in view of the state of war was unthinkable (Richard Kralik, History of the City of Vienna / Geschichte der Stadt Wien, 2nd edition, page 524).

"According to the opinion of the court such an order of Hitler - apart from military matters - could never have the power of a law. The problem of Euthanasia is as old as medical science itself. Just in the last decades all civilized states have been concerned with this problem, and physicians and legal men have agreed that the solution of this problem must be left to legislation alone.

"Besides the first defendant seems to have been aware of the illegality of his actions, otherwise he would not have sworn his collaborators, including the nursing personnel, to secrecy. The same must be true for the Reich Committee in Berlin, otherwise the directive would not have been issued in January 1945 to destroy the entire correspondence which had been carried on between Vienna and the Reich Committee in Berlin."

"As regards the legal side of this so-called order under which Dr. Illing maintains to have been, the following is to be said: there is no such a thing as an order for the commitment of a punishable act. This, on the one hand, results from the general code of ethics which is part of the law and, on the other hand, from the application of other laws. So for instance paragraph 47 of the German Military Penal Code decrees as follows 'If by the execution of an order in matters of duty a penal law is being violated, the superior issuing the order is solely responsible. The obeying subordinate will however be sentenced for participating in the case of his knowing that the order of a superior involved an action which intended a general or military crime or offense.....'. Similar stipulations are contained in paragraphs 535 and 560 of the special regulations for active members of the army (law of 15 July 1929. Penal Code Gazette No. 323).

"The defendant Illing is therefore not in a position to use the subterfuge that he was under an order 'having the power of law', because this order had not the power of law, quite apart from the fact that an order issued does not exculpate. (Paragraphs 1 and 5 of the War Criminals Act.)

"If, however, the two defendants offer as a reason for their actions the fact that they ordered Euthanasia only when ill children were to be delivered from their suffering the defendants having ascribed this motive also to the Reich Committee the following is to be stated:

"According to the previous activities of the first defendant, especially with a view to his scientific research of hereditary diseases, the court has come to the conclusion that Euthanasia of children is to be considered as on the same level as the killing of adult mentally ill persons and the extermination of the Jews. Here a saying of Hitler which prefaced sterilization manuals comes to mind:

'What is not of good race in this world, is chaff.'

"The first defendant, Dr. Illing, admitted without hesitation on the occasion of his first interrogation before the Russian captain having euthanized those children only who 'were of no value at all to the German people' (Bl. 21 15), that is, in other words, the national socialist slogan of the 'purification of the German people'. It is however absolutely wrong to suppose that the Reich committee was motivated in its decrees of 'treatment' by feelings of compassion, on the contrary it will be sufficient to point to the fact that compassion did not exist at all in the Third Reich."

.....
"Summarily it is therefore to be stated that the actions of both defendants did not only offend against the general penal law but also against the general moral code and the medical ethics. The task of the physician is, of course, to cure and not to kill. And last but not least one can point to the fact that especially children, of whom it is a question here, are in any case particularly protected by the law, (par. 21 General Civil Code." (MO-317, Doc. Book 16, p.64).

The court of Assizes in Berlin, at the session on 25 March 1946, found the defendants Hilde Wernicke and Helene Wieszorek guilty of murder and sentenced them to death. Both were active in the Meseritz-Obrawalde sanatorium for the mentally ill. Both defendants had to sign certificates stating that they engaged themselves not to reveal anything about the contents of the legal directive and oral request to kill all incurable mentally ill persons. The selection of the persons who were to be killed was carried out in such a way that the defendant Wernicke read the case histories and "looked" at the patients concerned.

About 600 persons were killed between 1943 and 1944 by scopolamine and morphine injections. Also some children were killed. The Court of Assizes found further:

"The right of administering euthanasia has not been recognized so far by the law. But even if euthanasia should not be excluded on principle for humanitarian reasons, such medical 'help' could be allowed only in very exceptional cases, for instance, if the problem were whether an intolerably painful and in all likelihood protracted illness were to be ended by a painless death. The case at hand however did not require a further discussion of this much discussed problem. The defendant Warnicke, according to her own statement, did not make her selection from humanitarian motives at all. Rather, the persons indicated by name on the lists submitted to her for her decision were considered from the beginning as insane persons, who should be killed as a matter of principle." (NO-445, Doc. Bk. 16, p. 86).

The Court of Appeals in the same case rejected the appeals of both defendants. The following quotations from the Reasons may be of interest:

"In the spring of 1943, the administrative director of the institution, Gradowski, told the defendants that a law - subsequently also called by him a Fuehrerbefehl - had been issued, according to which incurable insane had to be killed in order to shorten their sufferings, and emphasized in this connection: 'Laws must be obeyed. You must do your duty.'"

.....

"The objection against the application of the material law culminates in the assertion, that the defendants had acted without being conscious of any illegality.

"This objection also met with no success.

"No law existed which prescribed the killing of incurably insane persons no longer capable of work. This is also established by information obtained as a precautionary measure from the American prosecutor in the Nuernberg trial, Dr. Kempner, who conducted the case against Frick, - a case which was also based on the

killing of insane persons. The law mentioned to the defendants, by the administrative director Grabowski, was no law at all, if only because it was not only not published, but the strictest secrecy was enjoined on everyone who knew of it, under threat of imprisonment or death. Nor did the defendants act at all according to this alleged law. For according to Grabowski's information this law prescribed the killing of mental patients in order to shorten their sufferings. The assize court, however, has established that the decisive consideration in the killings effected by the defendants was by no means the shortening of the patient's sufferings, but, apart from their incurability, the incapacity of the patients to perform labor."

.....

"In this connection, the appealers use the term 'euthanasia' in a wider sense which includes the destruction of life unfit to live. In the real meaning of the word, euthanasia has the sense of helping someone to die. The soothing hand of the doctor helps the doomed, suffering patient to cross the threshold of death. So far, as the assize court has correctly pointed out, euthanasia has not been accepted even in this more restricted sense as legal justification for killing, let alone in the wider sense of the destruction of life unworthy to live. To destroy the lives of the incurably insane because they are no longer capable of work violates the universally-acknowledged moral law. The attempts made by appealers to justify this destruction as the result of serious research in this direction which has been carried on for a comparatively long time - and therefore as not originating entirely in national-socialist concepts - are futile. The thesis by Binding and Hoche in 1920 - the authors being a jurist and a psychiatrist of international reputation - which the appealers also regard as the standard work on this subject and which deals with the right to destroy life unworthy to live, by no means asks for the right to kill all incurable mental patients no longer capable of working, but only suggests the killing of incurable imbeciles in accordance with some formal legal procedure implemented with every possible guarantee; because these imbeciles have the will neither to live nor to die, and are unable to give any real consent to their being put to death, while on the other hand, putting them to death does not involve breaking down their will to live.

On the contrary, the authors say that the will to live of even those who are most seriously ill, suffer most gravely and are of least use, should be fully respected. It is a matter of common knowledge that e.g. the large group of schizophrenic lunatics includes many patients whose incurable condition is not always recognizable as such by the layman and who most certainly are not lacking in the will to live. But this suggestion, even when restricted to incurable idiots as urged by Binding and Hoche has by no means been universally approved. The former Attorney-General (Oberreichsanwalt) Ebermayer, whom the appellants also quote, raises serious objections in the essay which he published in 1920 'The Physician and the Law' ('Der Arzt im Recht') and concludes with a remark characteristic of the attitude existing towards this problem a few years before the so-called seizure of power viz, that the problem was not of any immediate importance and could hardly become so in the near future.

"As to destroy the life of the incurably insane from the point of view of their permanent complete unfitness for work is to violate a universally acknowledged moral law, the defendant's guilt is not excluded by the possibility that they were unconscious of any illegality and considered their acts as lawful."

.....

"The Court believes that nobody can invoke an opinion contrary to the universally acknowledged moral law in order to justify the lack of any consciousness of illegality."

.....

"Officials or employees need not obey a criminal order or a criminal regulation. They are not only entitled, but they are also in duty bound to examine whether order or regulations violate penal laws. They have 'approved, in their minds, the measures and the requirements of Grabowski'. Thus they have considered as right and lawful the killing of incurably insane persons who were no longer fit to work. Even if this was the contents of an order the fact does

excuse them. No subordinate can justify himself by the plea that he considered as lawful an order implying the killing of human beings, and violating a universally acknowledged moral law."

.....

"In the application of art. 211 new version, the court of assizes has sentenced the defendants, without judicial error, for murder, because they have killed from unworthy motives and maliciously. As the court of assizes has established, the defendants have not submitted to an order contrary to their inner conviction. Neither have they been moved by pity for the patients but by the conviction, that the latter should be destroyed as useless members of the community owing to their unfitness for work. Moreover, an act which has been committed against so many people - and indeed continuously - and which violates universally acknowledged moral principles so deeply cannot but be considered as having been committed out of base motives."

.....

"It is an abuse of the power of life and death over unconscious patients or such who cannot be expected, owing to lunacy, to be able to discuss their illness pertinently if this power is used in killing such patients by means of a shot harmless to the person administering it, and out of unworthy motives, as has been established."

.....

"It cannot be mistaken that the defendants Wernicke and Wiczorek are only the last links of a long chain, and that they are preceded by persons whose guilt is still greater." (NO-447, Doc. Bk. 16, p. 108). (Emphasis added)

Thus, it is established that euthanasia was murder according to German law.

In connection with this question, it is again pointed out that the whole program was kept completely secret. Hitler's letter of 1 September 1939 (R. 1516)

was marked Top Secret, was never published, and the Minister of Justice only received a copy of it one year after its issuance. (630-PS, Pros. Ex. 330, R. 1516). Transfers of inmates of insane asylums to euthanasia stations were allegedly carried out by the order of the Reichs Defense Commissioner. (NO-1133, Pros. Ex. 335, R. 1546). The officials active in the Program had to sign a written oath of secrecy. (NO-1312, Pros. Ex. 338; NO-1311, Pros. Ex. 339, R. 1551-2). The doctors who performed euthanasia were warned that they would be severely punished if they sabotaged the work. (R. 1894). The whole program of Euthanasia was to be kept secret as they were told from the beginning that it was a top secret matter. The reason given was to avoid unrest among the population. Breach of secrecy was considered sabotage. (Mennecke, R. 1923). Others had to sign a written oath binding them to secrecy. It was known that the result of breach of this oath was confinement in a concentration camp. (Schmidt, R. 1826).

F. Personal Responsibility of Karl Brandt

Brandt was put in charge of the program, together with Bouhler, by the above-quoted letter of Hitler of 1 September 1939. His position as highest authority in the Euthanasia Program is outlined in the affidavit of Dr. Boehm, one of the oldest members of the NSDAP. When, in November 1940, Boehm approached Martin Bormann with the request to obtain an audience with Hitler to complain about the execution of the Euthanasia Program, Bormann referred him to Brandt as the responsible authority for the execution

of euthanasia. As a result, Boehm had a discussion with Brandt and when he complained, among other things, that the Euthanasia Program was not regulated by law and should not be carried out in a secret manner, Brandt admitted that the Minister of Justice, Guertner, had also urged legislation. From his conversation with Bormann and Brandt, Boehm was sure that Brandt was the leading personality in the Program. (NO-3059, Pros. Ex. , R.). Brandt admitted that it was necessary to set up a special organization to carry out euthanasia. (R. 2407).

He, together with Bouhler, had authority over the physicians who were participating in this Program, and furthermore he had to keep Hitler informed from the medical point of view (English translation is garbled on this point and reference should be made to the German transcript, R. 2420) and had to maintain contact with Bouhler. (Brandt, R. 2408). He further admitted that authorizations for the killing of children were submitted to him and Bouhler. (R. 2544).

He stated that he resigned his job some time in 1942. (R. 2433). While this is of no material significance, it is established that he held his position as the leading figure in the program until 1944. Dr. Ludwig Sprauer, in his affidavit, stated:

"I heard the name of Prof. Dr. Karl Brandt for the first time at a conference in the middle of 1941 in Berlin. At this conference I learned that Karl Brandt and Philipp Bouhler are the leading figures in the Euthanasia Program. The conference was

called by Dr. Linden on behalf of the Department of the Interior and problems of institutions and asylums were submitted. Dr. Linden directed the proceedings.

"To the best of my knowledge and belief, Phillip Bouhler as well as Prof. Dr. Karl Brandt were the leading figures in this so-called Euthanasia Program from 1941 to the collapse of Germany.

"The connection between the Department of the Interior and Prof. Karl Brandt, in the framework of the Euthanasia Program, was that Karl Brandt gave orders to Conti and Linden, which were passed on by these persons on behalf of the Department of the Interior. Brandt was the dominating figure without doubt." (NO-318, Pros. Ex. 378, R. 1608).

The witness Vesse said in his affidavit that Brandt was in charge of the Euthanasia Program (killing of mentally ill adults who were unfit for work and killing of mentally inferior and asocial children) at least until March 1944. (NO-1428, Pros. Ex. 432, R. 1953).

The witness Mennecke testified that he learned in the beginning of 1941 that the defendant Brandt was active in the Euthanasia Program. (R. 1874). He further testified:

"When, in 1944, I was treated as a patient in the Army hospital at St. Blasien, I found out through conversations with officers, that Prof. Brandt had an essential part in the collection of insane persons in the area of Lublin, Poland." (R. 1903).

He further testified, in connection with this Lublin action, that it must have taken place up to 1944 and that it was said that insane persons and Jews were collected in Lublin in large numbers. (R. 1904).

The witness Schmidt testified that Prof. Brandt had the medical direction of the Program and only in 1944 was he told that Brandt had left the Program. (R. 1825). He

also knew that Brandt played the leading part in the task which had to be accomplished (Euthanasia Program), that he (Brandt) was to accomplish this task. (Schmidt, R. 1847).

Both witnesses, Schmidt and Mannecke, also testified that the chart (NO-253, Pros. Ex. 331, R. 1518), which shows Brandt in the center of the Program, is correct. (Schmidt, R. 1833, Mannecke, R. 1876).

The evidence shows further that Brandt gave orders in the Euthanasia Program as late as July 1943. In a letter from the General Patients Transport Corporation, dated 20 July 1943, to the Mental Institution Hadamar -- which was, as documents and testimony show, an extermination station -- the following sentences are found:

"I order transfer of insane persons to your Institution also, this by order of Prof. Brandt, the Commissioner General of the Fuehrer for Medical and Health Service. You will get, on 26 July 1943, 150 insane women from the Mental Institution Warstein if the Reichsbahn will furnish the necessary cars, as requested." (NO-892, Pros. Ex. 442, R. 2536).

Brandt was the person who had to be approached if one were to save a child from euthanasia. In a letter from the Reichs Committee for Research on Hereditary and Constitutionally Severe Diseases, dated November 16, 1943, to Dr. Schmidt's Sanatorium Eichberg (as the evidence shows, a killing station for deficient children), we find the sentence:

"On the basis of a letter directed to Professor Dr. Brandt concerning the above mentioned I request an elaborated diagnosis about the mentioned Anna Gasse who is reported to be at your institution at present."

and, further:

"If from a medical point of view such release is warranted, one could take into consideration whether one should not perhaps comply with such request in the interest of the good reputation of the institution." (NO-890, Pros. Ex. 443, R. 2540-1).

That the defendant Karl Brandt was in a position to issue instructions and assign tasks to insane asylums in Germany is further corroborated by the affidavit of the defendant Rose, who said that in 1943 Brandt put an insane asylum in Thuringen at his disposal and made arrangements that this Institution would not be converted into a general hospital and further that in 1944, Brandt made arrangements for the better feeding of inmates of this Asylum in order to enable Rose to proceed with his malaria therapy. (R. 1717). If this statement in itself has nothing to do with euthanasia, it shows the scope of influence and power Brandt still commanded over insane asylums in 1943 and 1944. (NO-872, Pros. Ex. 408, R. 1716).

According to his own testimony, Brandt was in charge of euthanasia until 1942. (R. 2433, R. 2532). There is no proof, other than his own statement, that he resigned his commission at that time. On the contrary, the proof has shown that he was active in this field until some time in 1944. In any event, the program was criminal in its inception. The murder of concentration camp inmates pursuant to euthanasia began as early as 1940. Non-German nationals were included in substantial numbers. Healthy Jews were exterminated without examination. Trained killers from euthanasia stations were sent to the East as early as 1941

to aid in the mass murder of Jews. Persons whose only crime was physical inability to work were subjected to euthanasia from the very beginning. Indeed, the elimination of "useless eaters" was the principal rationale of the whole program.

Brandt stated that an order existed which exempted non-German nationals, but he was unable to give any explanation as to how this order operated, who received it, and why, if such an order existed, questionnaires for foreign nationals were filled out at all. (R. 2499-2503). The proof has shown that non-German nationals were never exempted and were killed in large numbers. There is nothing to be said in mitigation for Brandt.

IV. CONCLUSION

Karl Brandt, as General and later Reich Commissioner of the Health and Medical Services, held the position of highest authority in the medical services of the Third Reich. His task was to coordinate the activities of all the medical services, both military and civilian. He was directly responsible to Hitler. He was Hitler's attending physician and a Gruppenfuhrer (Major General) in the SS.

Brandt, together with Rostock, was informed of the sulfanilamide experiments by Gebhardt before the meeting in May 1943. He was one of the honored guests at that meeting and the reports by Gebhardt and Fischer described the experiments in complete detail.

Four days after this meeting Brandt asked for concentration camp inmates, through Grawitz, to be used in epidemic jaundice experiments. Cases of death were anticipated. Eight Polish Jews were experimented on, some of whom died.

The typhus experiments in Buchenwald were also reported on in the meeting of Consulting Physicians in May 1943, which Brandt attended. It is inconceivable that he did not hear of the objections raised to those experiments. Moreover, Handloser and Conti were informed of these experiments and both were required to report on "basic events" to Brandt. Haagen's typhus experiments in Natzweiler were supported by the Luftwaffe and the Reich Research Council. Brandt was a member of the Reich Research Council. In August 1944, Rostock's Office for Science and Research, under Brandt, classified Haagen's typhus research as urgent.

Brandt received plenary powers from Hitler in the field of chemical warfare in March 1944. He met with Sievers and Hirt and received a report of the murderous gas experiments in Natzweiler. These experiments continued after March 1944. Hirt's gas research was classified urgent by the Office for Science and Research.

Brandt personally supported the gas experiments by Bickenbach. He helped him establish a laboratory. He visited Bickenbach in the Natzweiler Concentration Camp where he conducted gas experiments on inmates. Reports by Bickenbach sent to Brandt prove that 40 Russian prisoners of war were experimented on with phosgene and at least four of them were killed. Brandt was also connected with experiments on inmates

to test the decontamination of water poisoned with gas.

Sterilization experiments were performed by Schumann, a doctor active in the euthanasia program under Brandt.

Brandt's knowledge of, and participation in, the systematic experimentation on concentration camp inmates without their consent is further proved by his repeated requests for such experiments. In January 1943, he wrote to SS-Obergruppenfuehrer Wolff and asked if it were not possible to carry out nutrition experiments in concentration camps. In September 1943, he asked Grawitz to test a new ointment for burns. Permission was given by Himmler to conduct such experiments on inmates who were to be artificially burned. In February 1944 Brandt, after a discussion with Grawitz, requested 10 inmates for the purpose of testing a medicine. The prisoners were made available.

Brandt, together with Reichsleiter Bouhler, was in charge of the euthanasia program which involved the ruthless murder of hundreds of thousands of helpless men, women, and children. This was no altruistic program to ease the pains of an impending and unavoidable death. It was rather a program for the extermination of those who were considered a burden on the State, who were unable to work, who consumed without producing. No law gave it a superficial legality. It was illegal in its inception and operation. Judgment was passed by so-called experts as to life or death of a patient on the basis of questionnaires without the expert so much as having examined the patient. It encompassed the murder of Germans and citizens of occupied countries alike. It extended to concentration camp inmates of non-German nationality forcibly detained in Germany. It included healthy Jews and forced laborers from the East. Scientific killers trained in the gas chambers of the euthanasia stations were sent to Poland to assist in the mass murder of Jews.

The Prosecution submits that the evidence proves that Karl Brandt was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experimentation on human subjects without their consent, in the course of which experiments murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts were committed, and the execution of the so-called "euthanasia" program, in the course of which hundreds of thousands of human beings were murdered, and that his guilt has been established under Counts I, II, III, and IV of the Indictment.

MILITARY TRIBUNAL NO. I

CASE NO. 1

CLOSING BRIEF FOR

THE UNITED STATES OF AMERICA

AGAINST

RUDOLF BRANDT

James M. McHaney
Alexander G. Hardy
Arnost Horlick-Hochwald
Esther Jane Johnson

Nurnberg,
16 June 1947

For:

Telford Taylor
Brigadier General, U.S.A.,
Chief of Counsel for War Crimes



INTRODUCTION

It is alleged under Count One of the Indictment that the defendant Rudolf Brandt conspired and agreed with others, pursuant to a common design, to perform medical experiments on involuntary human subjects; under Counts Two and Three (War Crimes and Crimes against Humanity, respectively), that he was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with, plans and enterprises involving medical experimentation on involuntary human subjects, the murder of 112 Jews selected for the purpose of completing a skeleton collection for the University of Strasbourg, and the murder and mistreatment of tens of thousands of Polish nationals allegedly suffering from incurable tuberculosis; under Count Four, that he was a member, after 1 September 1939, of the SS, an Organization declared to be criminal by the International Military Tribunal.

The defendant Rudolf Brandt is particularly charged with having participated in the high altitude, freezing, malaria, Lost (mustard) gas, sea water, epidemic jaundice, sterilization, sulfanilamide, and typhus experiments. He also was a principal in the murder of 112 Jews selected for the purpose of completing a skeleton collection, and in the murder and mistreatment of tubercular poles. In order to simplify the issues, the prosecution withdraws the charge of having participated in the bone, muscle and nerve experiments, set forth in Par. 6 (F) of the Indictment.

I. POSITIONS OF RESPONSIBILITY

Rudolf Brandt joined the Nazi Party in 1932. In 1933 he joined the SS and was commissioned as Second Lieutenant (Oberleutnant). He ultimately attained the rank of Colonel (Standartenfuhrer). Although his initial employment in 1933 with the SS was as clerk in the Office of the Chief of Staff of Himmler at a monthly salary of RM 120, Brandt rapidly advanced to the position of Personal Referent to Himmler. In 1943, when Himmler became Reich Minister of the Interior, Brandt was appointed Ministerialrat in this Ministry. (R. Brandt, R. 4869-4871). In this capacity, he was chief of a department and head of the Ministerial Office. Moreover, he retained his position as Chief of the Personal Referat in the SS. (R. Brandt, R. 4988-9).

As Himmler's personal referent, Brandt occupied a position of considerable responsibility. All correspondence requiring Himmler's attention was first forwarded to Brandt and consequently he had knowledge of all of Himmler's plans and activities. On Himmler's express orders, questions of an official, and even of a personal nature were very frequently cleared through Rudolf Brandt. (R. Brandt, R. 4879-80). That a close and confidential relationship between Himmler and Brandt existed is evident from the defendant's own testimony, wherein he stated that he was able to contact Himmler immediately. (R. 4880). Moreover, Brandt stayed with Himmler when the Allies occupied Germany until the day of his arrest on Whitsunday 1945, twenty-four hours before Himmler.

himself was arrested by the Allies. (R. Brandt, R. 4868).

Brandt was charged with responsibility for the entire mail in Himmler's office, which encompassed approximately 3,500 letters per month. In describing his functions with respect to correspondence, Rudolf Brandt stated, "My task in this was to tell Himmler what letters had come for him either in the so-called 'important' mail -- namely the mail he read himself -- or by reporting to him what letters had come for him, or through reading the whole of the letter to him." (R. Brandt, R. 4873). In connection with the correspondence, the defendant Brandt has emphasized the fact that the Prosecution has presented but 113 letters to establish his complicity in this case. He seeks to prove from this fact that since the total number of letters written during this period exceeded 160,000, the medical experiments lay outside of his general sphere and that these medical matters played a small part in the execution of his duties. This argument is of course absurd. The history of crime is replete with cases of persons who have lived law-abiding lives for many years yet have, in a period of a few seconds in a life span, committed murder. Moreover the proof has shown that Rudolf Brandt participated in many other crimes. For example, he passed down the notorious Flyer Order, which encouraged the lynching of Allied flyers who bailed out over Germany, (R. 4982). He participated in the plans for the kidnapping of Czechoslovakian children (NO-435, Pros. Ex. 465, R. 4983), and the issuance of the order for the destruction of the Warsaw Ghetto and

the transfer of its Jewish inhabitants to extermination camps. (R. 4986-7). The fact that Brandt was connected with a great number of crimes systematically committed by the SS is surely no defense to his participation in the crimes which are the subject of this Indictment. If the Tribunal were to accept the mechanical measure of guilt suggested by Brandt, the Prosecution can just as validly argue that his guilt is in the ratio of 10 to 1 as compared with a defendant whose name appears on only 11 documents in the record. By the very nature of his position, Rudolf Brandt not only knew what was happening but also handled the administrative details in effectuating Himmler's broad orders. Where a basic decision was required, he called the matter to Himmler's attention. For example, in a letter to the defendant Juevers, dated 6 June 1944, he said, "I have informed the Reichsfuehrer SS as the matter seemed important enough". (NO-009, Pros. Ex. 305, R. 1400). Otherwise he exercised his own initiative in seeing that everything ran smoothly in accordance with general directives laid down by Himmler.

That Brandt's position was an important and responsible one is clearly proved by the evidence submitted in his own defense. Doris Machner stated in her affidavit, in substance, that the defendant Brandt was the personal technical advisor to Himmler and that his position was one of great confidence. She further stated that Brandt tried to carry out correctly and comprehensively the wishes, requests and proposals of Himmler and that he certainly succeeded in accomplishing this because of his objec-

tive methods. (Brandt Ex. 11, R. 4997). Dr. Helmut Fitzner in his affidavit stated that: "He (Brandt) had to report verbally to Himmler about the letters and petitions addressed to Himmler, had to prepare written replies in accordance with Himmler's decision or had to make the replies himself as deputy to Himmler". (Brandt Ex. 8, R. 4997, emphasis supplied). Grete Hinze declared in her affidavit that: "From occasional remarks he (Brandt) made, I learned that he was one of those subordinates who were unfortunately but few, who had the courage to speak openly to Himmler of inconveniences and unpleasant things". (Brandt Ex. 9, R. 4997, emphasis supplied). The affidavit of Dr. Kersten reveals that Rudolf Brandt often opposed Himmler and thereby placed himself in a difficult position with Himmler. (Brandt Ex. 5, R. 4996).

That Brandt exercised considerable individual initiative is proved by the fact that Sievers, Rascher, Klauberg, Greiser and Koppe, among others, approached him directly on many occasions concerning medical experimentation on concentration camp inmates, the extermination of the tubercular Poles, and the creation of the skeleton collection. Brandt on his part contacted the defendant Gebhardt, Grawitz, Rascher and Pohl in connection with these criminal activities. (See infra). Brandt tried to explain the fact that many of the letters dealing with these activities were addressed to him by stating that the writers either did not know what position he held or what caused Himmler to let him sign letters addressed to them. This is of course ridiculous.

Brandt had been with Himmler since 1933. He grew up with the SS.

Rudolf Brandt was also a member of the Ahnenerbe Society. (See the Prosecution's brief against Sievers). Himmler was President of this Society. Brandt acted as liaison between Himmler and Sievers, Reichs Business Manager of the Ahnenerbe. (NO-589, Pros. Ex. 28, R. 130).

Brandt's responsibility for crimes with which he is charged in the Indictment is proved by his own affidavits. Brandt tried to explain, not to say repudiate, his affidavits by testifying that he made the statements on the basis of documents shown to him in pre-trial interrogations, but such is not the case. Without a doubt, Brandt is as well advised on the crimes which are the subject of this trial as anybody in Germany. There is no reason whatever for refusing to give full weight to his pre-trial statements. There has been no proof that they were obtained by fraud or duress. On the contrary, Brandt admitted in cross examination that he signed the affidavits voluntarily, that he had opportunity to read them and make corrections and that, certain changes were in fact made at his request. (R. Brandt, R. 4990). Brandt's testimony before the Tribunal can be summed up in one sentence: "I remember nothing." Aside from a description of Himmler's personality, he contented himself with giving answers to leading questions by his attorney which were calculated to reveal him as a disembodied stenographic automaton -- something in the nature of a proficient half-wit. Surely his pre-trial affidavits are entitled to more

weight than the blatant nonsense which was his testimony.

Brandt pleads the doctrine of superior orders in mitigation of his crimes. Whether he established policy in the first instance is not in issue, but only whether he participated in the preparation and execution of the crimes with which he is charged. Paragraph 4 (b) of Article II of Control Council Law No. 10 provides as follows: "The fact that any person acted pursuant to the order of his Government or of a superior does not free him from responsibility for a crime, but may be considered in mitigation." Thus, the only question here presented is whether the Tribunal should consider superior orders as mitigating the guilt of Rudolf Brandt. The Prosecution submits that it should not. The evidence has clearly shown that Brandt had knowledge of and participated in numerous criminal experiments, the murder of some 86 Jews for the purpose of a skeleton collection, the extermination of thousands of Polish nationals allegedly suffering from incurable tuberculosis. There is no evidence that Himmler ordered Brandt to participate in any crime. Brandt did so wilfully. There is no evidence that Brandt retained his position out of fear. He flourished in it. There is no evidence that he had the slightest reservation in his work as Himmler's administration. If he had, nothing would have been easier than to be replaced out of request or feigned inefficiency.

Brandt was not a soldier on the field of battle. His activities were far removed from the confusion of the Front lines. He did not act in the spontaneous

heat of passion; he had full time to consider and reflect upon his course of action. He stayed in his position from 1933 until his arrest by the Allies in 1945, no less than 12 years. This fact alone removes any basis for mitigation. Moreover, assuming Brandt was ordered to commit the criminal acts which are the subject of this trial, when there is no fear of reprisal for disobedience, obedience constitutes a completely voluntary participation in the crime. Such is the case with Rudolf Brandt. Finally, the doctrine of superior orders cannot be considered in mitigation where such malignant and numerous crimes have been consciously and ruthlessly committed over a period of many years.

These then were the positions of responsibility of the defendant Rudolf Brandt: Colonel in the SS, Personal Referent on Himmler's Staff, Ministerial Councillor in the Ministry of the Interior and Himmler's closest administrative collaborator, and a member of the Abnenerbe. Brandt used the foregoing positions, his personal influence and his intimate connection with Himmler in a manner which involved the commission of War Crimes and Crimes against Humanity as set forth in the Indictment.

II. PERSONAL PARTICIPATION IN CRIMINAL EXPERIMENTATION

The defendant Gebhardt admitted that "the SS and Himmler were the common element in all of these experiments". (Gebhardt, R. 4192). While it is conceded that Rudolf Brandt may not have made major policy decisions in the first instance, he handled a great number of the administrative details which per-

R. BRANDT

mitted the experiments to run smoothly. He passed down Himmler's orders. He was the liaison between Himmler and the Ahnenerbe, the doctors who performed the experiments, and the agencies supporting them. His service, his diligence and his never tiring efforts gave life to the undertaking. Although he was not a physician, Brandt's contribution to the experiments surpasses that of any single doctor concerned with them. That his participation was a voluntary and knowing one is proved by the evidence submitted by the Prosecution. He willingly took part in criminal activities which resulted in the murder, torture and inhumane treatment of thousands of helpless men, women and children.

A. Sterilization Experiments (Indictment, Par. 6 (I)).

By 1941 it was the accepted policy of the Third Reich to exterminate the Jewish population of Germany and the occupied countries. (Judgment of the I.M.T., R. 16920, et seq.) Because of the pressing need for laborers, sterilization of Jews able to work was considered as an alternative to outright extermination. (NO-205, Pros. Ex. 163, R. 536-7).

In order to ascertain cheap and fast working methods for sterilization, experimentation on concentration camp inmates by means of drugs (NO-036, Pros. Ex. 143, R. 512), injection of an irritating solution (NO-212, Pros. Ex. 173, R. 570), and X-rays and surgical operation (Levy, R. 556-9) were carried out on a large scale. Brandt not only had full knowledge of these experiments, but collaborated actively in all of them.

The purpose of the sterilization experiments is well described by Brandt in his own affidavit:

"Himmler was extremely interested in the development of a cheap and rapid sterilization method which could be used against enemies of Germany, such as the Russians, Poles and Jews. One hoped, thereby not only to defeat the enemy but to exterminate him. The capacity for work of the sterilized persons could be exploited by Germany, while the danger of propagation would be eliminated. (As) This mass sterilization was part of Himmler's racial theory, particular time and care were devoted to these sterilization experiments. Surgical sterilization was of course known in Germany and applied. This included castration. For mass application, however, this procedure was considered as too slow and too expensive. It was further desired that a procedure be found which would result in sterilization that was not immediately noticeable." (NO-440, Pros. Ex. 141, R. 501).

Sterilization experiments in order to ascertain the efficacy of a drug known as caladium seguinum (Schweigrohr) were suggested to Himmler by the defendant Pokorny in October 1941. Pokorny reported that Dr. Madaus had found,

as a result of his research on medical sterilization of animals, that caladium seguinum produced permanent sterility in animals when administered orally or by injection. Pokorny further stated in his letter that:

".....the immense importance of this drug in the present fight of our people occurred to me. If, on the basis of this research, it were possible to produce a drug which after a relatively short time, effects an imperceptible sterilization on human beings, then we would have a new powerful weapon at our disposal. The thought alone that the 3 million Bolsheviks, at present German prisoners, could be sterilized so that they could be used as laborers but be prevented from reproduction, opens the most far reaching perspectives."

He therefore advocated immediate research on human beings in order to determine the dose and length of treatment, the cultivation of the plant caladium seguinum in hot houses, and chemical research in order to produce the drug synthetically on a large scale. (NO-035, Pros. Ex. 142, R. 510).

Himmler agreed to Pokorny's suggestions and requested Pohl on 10 March 1942 to contact Dr. Madaus and to "offer him possibilities for doing research in cooperation with the Reichs Physician SS (Grawitz) on criminals who would have to be sterilized in any case." He further ordered that the intended plan of research should be submitted to him. It was the defendant Rudolf Brandt who forwarded a copy of this letter to Grawitz (NO-036, Pros. Ex. 143, R. 512) and furnished him, on 20 April, with a copy of Pokorny's report and information on the publications of Madaus concerning medicinal sterilization of animals. (NO-037, Pros. Ex. 146, R. 513).

Brandt's office submitted Madaus' report on the studies of experiments on animals to SS Obergruppenfuehrer Heydrich, Chief of the Security Police and SD. The letter of

transmittal, dated 23 April 1942, bears the same file number as Himmler's letter to Pohl (752/5) and refers expressly to "the question of sterilization by medicine." (NO-047, Pros. Ex. 145, R. 513).

On 1 June 1942, Brandt requested a report from Pohl, Chief of the WVHA, as to the progress of the preparation for experiments. (NO-038, Pros. Ex. 147, R. 514). Pohl reported on 3 June 1942 that since "Schweigrohr", from which caladium seguinum was derived, grew only in North America and could not be exported in adequate quantities, attempts to grow the plant from seed cultivated in hot houses had been made by Dr. Koch of the Biological Institute of the Madagascars Works. These attempts had been successful, but the process of growing the plant and developing the drug was not speedy enough and the yield not sufficient to permit experimentation on a large scale. In order to remove these difficulties, he said that it would be necessary to build a larger hot house. (NO-046a, Pros. Ex. 148, R. 515-6). On 11 June, Brandt advised Pohl that he had informed Himmler of his letter and that Himmler wanted Pohl to see to it that a large hot house was placed at Dr. Koch's disposal as soon as possible as Himmler considered the experiments extremely important. Brandt also asked Pohl for further reports in the matter. (NO-046b, Pros. Ex. 149, R. 516). Only eight days later, Brandt himself had a conference with Pohl in which, among other things, he informed Pohl of Himmler's request to have the ingredients of caladium seguinum thoroughly investigated to determine whether equally effective ingredients could be found in plants more easily accessible. Brandt requested that the work of Dr. Koch should be carried out to the fullest extent. He informed Pohl that experiments should be conducted in

concentration camps with the amount of the drug then available. Pohl agreed to take the necessary steps at once. (NO-044, Pros. Ex. 150, R. 517). Department IV-B-4 of the Reichs Main Security Office, the agency which was in charge of the solution of the Jewish question (Judgment of the I.M.T. R. 16924), was informed by a subordinate of Brandt about Madaus' research work and requested to collaborate closely with Pohl in this matter. (NO-050, Pros. Ex. 151, R. 518). A copy of this letter was forwarded to the defendant Rudolf Brandt. (NO-051, Pros. Ex. 152, R. 518).

The Deputy Gauleiter (Province leader) of the Lower Danube (lower Austria), SS Obergruppenfuehrer Gerland, informed Himmler on 24 August 1942 that the Director of the Office for Racial Policy in this Province, Dr. Fehringer, had examined the question of mass sterilization and, in this connection, had come across Dr. Madaus' studies on medicinal sterilization with caladium seguinum. For reasons similar to those suggested by the defendant Pokorny (NO-035, supra), Gerland advocated experimentation on inmates of the gypsy camp of Lackenbach in the Lower Danube. Gerland pointed out that if these experiments were successful, as was expected, it would be possible to sterilize practically unlimited numbers of people in the shortest time and in the simplest way conceivable. (NO-039, Pros. Ex. 153, R. 519).

It was the defendant Rudolf Brandt who took the matter up and informed Gerland on 29 August of the steps which had already been taken in respect to experiments with caladium seguinum. From Brandt's letter, it is apparent that Himmler was not present at that time. Brandt took care of this matter on his own initiative and informed

Gerland that Pohl and Grawitz were in charge of the experiments. He requested information from Gerland whether Dr. Fehringer had *caladium seguinum* available and what means for the procurement of this plant the latter would suggest. (NO-040, Pros. Ex. 154, R. 521). Copies of Gerland's letter were forwarded by Brandt to Pohl and Grawitz. On 7 September 1942, Pohl gave Gerland further details and informed him that he and Dr. Lolling were personally supervising the experiments. Pohl, in turn, sent copies of this letter to Rudolf Brandt and Grawitz. In the cover letter to Brandt, Pohl informed him that he had been to the Madaus Works to convince himself of the progress of the experiments and that Dr. Lolling would cooperate in them. An agreement had been reached with Madaus "to transfer the experiments to our concentration camps as soon as possible." (NO-041, Pros. Ex. 156, R. 523).

On 14 October 1942, Gerland wrote to Rudolf Brandt and informed him of the letter he had received from Pohl. He stated that he considered Dr. Fehringer's suggestion to use inmates of the gypsy camp of Lackenbach as obsolete as Pohl had informed him that Lolling was already collaborating with the Biological Institute of Madaus. He further advised Brandt that Fehringer was of the opinion that it was quite possible to produce *caladium seguinum* chemically or have the plant cultivated in hot houses to an extent which would be sufficient for experimental purposes. He also suggested collaboration between Lolling and Fehringer. (NO-043, Pros. Ex. 157, R. 524). Brandt's reply of 25 October reveals that he, on his own initiative in Himmler's absence, agreed to the collaboration between Fehringer and Lolling.

(NO-049, Pros. Ex. 159, R. 525). Brandt sent copies of Gerland's letter of 14 October (NO-043, supra) and his reply (NO-049, supra) to Pohl. In his cover letter to Pohl, he expressed the conviction that in spite of the fact that he could not consult Himmler, he was convinced that the latter would certainly welcome experiments to produce caladium seguinum synthetically. He asked Pohl to arrange for a contact between Lolling and Fehringer. (NO-048, Pros. Ex. 158, R. 524).

There is no reasonable doubt that the sterilization experiments with caladium seguinum were, in fact, carried out on concentration camp inmates. Himmler, who was the highest authority to decide such questions, not only gave his consent to these experiments (NO-036, supra), but considered them "extremely important" (NO-046b, supra) and requested that they should be carried out in the concentration camps in any case. (NO-044, supra). Pohl, who was in charge of the administration of the concentration camps, agreed upon the request of Brandt to take the necessary steps immediately. (NO-044, supra). There can be no doubt that Department IV-B-4 of the RSHA, which was charged with the solution of the Jewish question, was informed about Madaus' research work for the purpose of furnishing the necessary Jewish victims for the experiments. The collaboration of Dr. Lolling, who was the doctor in charge of all concentration camps, can only be explained in connection with experimentation in these camps. This is also clear from Gerland's letter to Brandt:

"SS-Obergruppenfuehrer Pohl has informed me that the doctor of his Main Office is already collaborating with the Madaus Biological Institute for research on the effects of caladium seguinum, so that the suggestion of my District Main Office Leader (Gauhauptstellenleiter) Dr. Fehringer becomes obsolete." (NO-043, supra -- emphasis supplied).

It can only be concluded that Pohl and Lolling carried out the experiments in concentration camps as it was agreed upon between them, Himmler, Brandt, and Madaus. (NO-041, supra). Moreover, Brandt himself admitted in his affidavit that experiments with caladium seguinum on human beings were performed in concentration camps:

"As result of Pokorny's suggestion experiments were conducted upon concentration camp prisoners in order to test the effect of the drug. Simultaneously all efforts were made to cultivate the plant in large quantities. Oswald Pohl, Chief of the Economic and Administrative Main Office (WVHA), took a personal interest in this matter. Hothouses were used, with a certain amount of success, to cultivate this plant, and the experiments were continued." (NO-440, supra).

On 30 May 1942, Dr. Klauberg wrote to Himmler asking his support on sterilization experiments on female concentration camp inmates. (NO-211, Pros. Ex. 169, R. 564). On 4 June, the defendant Poppendick forwarded to Rudolf Brandt a list of doctors who were authorized to carry out sterilization. Klauberg is listed among these doctors. (NO-214, Pros. Ex. 168, R. 562). On 7 and 8 July, a conference took place between Himmler, Gebhardt, Gluecks, and Klauberg. The topic of discussion was the sterilization of Jewesses. Klauberg was promised by Himmler that the Auschwitz Concentration Camp would be placed at his disposal for experiments on human beings. He was assigned the task of performing experiments to test a method of sterilizing persons without their knowledge. He was ordered to report on this matter as soon as possible so that measures could be taken "for the practical realization of the sterilizations on a larger scale." It was suggested that Hohlfelder be consulted on the sterilization of men by X-rays. The participants in

the conference were admonished that these experiments were a matter of utmost secrecy. Rudolf Brandt denied having been present at this conference. Be that as it may, one of the two file memoranda which reveal complete knowledge of all details discussed in this conference was dictated by Brandt (NO-215, Pros. Ex. 172, R. 568), and the other was signed by him. (NO-216, Pros. Ex. 170, R. 565).

On 10 July 1942, Rudolf Brandt wrote a letter to Klauberg in which he informed him of the details of his assignment and the plans for the execution of the experiments. Klauberg was ordered to report to Himmler on how long it would take to sterilize a thousand Jewesses by his method. It was suggested that Klauberg should contact Pohl and a camp physician of the Ravensbruck Concentration Camp in order to perform there his sterilization experiments. Brandt stated further:

"Thorough experiments should be conducted to investigate the effect of the sterilization largely in a way, that you find out after a certain time, which you would have to fix - perhaps by X-rays - what kind of changes have taken place. In the one or the other case a practical experiment might be arranged by locking up a Jewess and a Jew together for a certain period and, to see then, what results are achieved thereby.

"I ask you to let me know your opinion about my letter for the information of the Reichsfuehrer-SS." (NO-213, Pros. Ex. 171, R. 567 - emphasis supplied).

Copies of this letter were sent by Brandt to Pohl, Gruwitz, SS Sturmbannfuehrer Koegel of the WVHA (Economic and Administrative Main Office), and to Gruppenfuehrer Mueller of the RSHA (Reichs Main Security Office). On 7 June 1943, Klauberg was able to report, on the basis of his experiments, that it would be possible to sterilize several hundred, if not even a thousand, per day by his methods. He stated that sterilization could be "performed

by a single injection made from the entrance of the uterus in the course of the usual customary gynecological examination." (NO-212, Pros. Ex. 173, R. 570).

The sterilization experiments of Klauberg were, in fact, carried out in the Auschwitz Concentration Camp. Brandt communicated with Klauberg on this matter again on 19 June and 22 July 1943. While these two letters are not available, it is clear from Klauberg's reply to Brandt, dated 6 August, that these communications were reminders to Klauberg to expedite his experimentation. In his reply, Klauberg stated:

"I really do need the second X-ray installation - I can give you the explanation only by word of mouth - at any rate the probability exists that even more of the installations will be needed later on (it depends on the kind of application of my results the moment these are fixed.) For I can get the installation without further difficulties, that is, it is 'waiting' for me - really I have got it already!"

"I have opportunity to acquire one myself and I quickly laid hands on it, and the installation is set up for some weeks. But what I care for is the following:

"I urgently need this installation here in Koenigshuette for my contrary (positive) research. But I cannot spare it in Auschwitz until I get a second installation from the Waffen SS. If I may tell you something between ourselves - the fact is that I will be able to replace this my own existing installation provided the Reichsfuehrer SS will give me his approval for it, and okays it. I would not bother either him or you with this unless it would be really necessary." (NO-210, Pros. Ex. 174, R. 572).

Brandt himself admitted in his affidavit that Klauberg did carry out sterilization experiments in the Auschwitz Concentration Camp on a large scale. He stated:

"Dr. Klauberg developed further a method for the sterilization of women. This method was based upon the injection of an irritating solution into the uterus. Klauberg conducted widespread experiments on Jewish women and gypsies in the Auschwitz Concentration Camp. Several thousand women were sterilized by Klauberg in Auschwitz." (NO-440, supra).

Sterilization of Jews by means of X-rays was suggested to Himmler by the defendant Brack in the spring of 1941. (NO-426, Pros. Ex. 160, R. 532). Himmler requested Brack to investigate, with some of the physicians who were active in the euthanasia program, the possibility of sterilization which would keep the victims unaware of their terrible fate. (Brack, R. 7484). On March 28, 1941, Brack forwarded to Himmler a report on the results of experiments concerning X-ray castrations in which he stated that mass sterilization by means of X-rays could be carried out without difficulty. Brack estimated that with twenty X-ray installations, sterilization of 3,000 to 4,000 victims could be carried out daily. (NO-203, Pros. Ex. 161, R. 534-5). On 12 May 1941 a subordinate of Brandt, SS Sturmbannfuhrer Tiefenbacher, acknowledged receipt of Brack's report and sent a copy to the Chief of the Security Police and SD, Heydrich. (NO-204, Pros. Ex. 162, R. 536).

The invasion of Russia began in the summer of 1941 and Brack's proposal was not acted on immediately, but on 23 June 1942, when Germany appeared to be on the verge of victory, Brack again wrote to Himmler suggesting the sterilization of Jews who were able to work. Jews unable to work were being exterminated. (NO-205, Pros. Ex. 163, R. 536-7). Himmler wrote to Brack on 11 August 1942 that further experiments to ascertain the effectiveness of X-ray sterilization should be carried out on concentration camp inmates by expert physicians who were to be furnished

by Brack's chief, Böhler. Rudolf Brandt sent copies of this letter to Pohl and Grawitz in order to put Himmler's decision into effect. (NO-206, Pros. Ex. 164, R. 536). Brack ordered his deputy, Blankenburg, to contact the chiefs of the concentration camps for this purpose. Blankenburg's letter, which communicated this fact to Himmler, was received by Brandt's office on 15 August 1942. (NO-207, Pros. Ex. 165, R. 538). As a result, experiments on inmates in the Auschwitz Concentration Camp were carried out by Dr. Schumann. (NO-208, Pros. Ex. 166, R. 539). One of the victims of these atrocious experiments was the young Polish Jew Balitzky, who, after having been subjected to severe doses of X-ray in genital area, was castrated by operation in order to determine the effects of the X-ray. (Balitzky, R. 541, et. seq.). At least 100

Involuntary experimental subjects -- Poles, Russians, French, and prisoners of war -- were used for these experiments. Only young, well-built inmates, in the best of health, were selected for them. (Levy, R. 556-7). Nearly all of the victims of these experiments were exterminated as the severe X-ray burns made them incapable of working. (Levy, R. 557; Balitzky, R. 543). Brandt admitted in his pre-trial affidavit that "sterilization experiments were likewise conducted with X-rays. Dr. Schumann applied this procedure in Auschwitz and sterilized a number of men." (NO-440, supra).

For a further description of the sterilization experiments, reference is made to the Prosecution's briefs against Pokorny, Gebhardt, and Brack.

B. High Altitude Experiments (Indictment, Par. 6(A))

Rudolf Brandt was an active participant in the high altitude experiments. His knowledge of and participation in these experiments is proved by his own affidavit. (NO-191, Pros. Ex. 43, R. 163). The plan originated with Rascher and was carried out by him and the defendants Weltz, Ruff, and Romberg, ably assisted by Brandt and Sievers. For a full description of the criminal nature of the high altitude experiments, reference is made to the Prosecution's brief against Weltz, Ruff, and Romberg.

The suggestion for the high altitude experiments on involuntary experimental subjects was made to Himmler by Rascher in a letter of 15 May 1941. Rascher informed Himmler that nobody would volunteer for such experiments as they were very dangerous. He, therefore, asked that criminals be put at his disposal. He expected that some fatalities among the experimental subjects would occur. (1602-PS, Pros. Ex. 44, R. 167). This letter was handed over by Himmler to Brandt, who informed Rascher that "prisoners will, of course, be gladly made available." At the same time, Brandt informed the Chief of the Security Police in order that the latter might contact Rascher in this matter. (1582-PS, Pros. Ex. 45, R. 169). Rascher later wrote to Brandt to obtain permission to carry out the high altitude experiments in the Dachau Concentration Camp itself (NO-217, Pros. Ex. 46, R. 171), whereas originally he had asked for permission to carry out his experiments at the "permanent Luftwaffe testing station for altitude research" in Munich. (1602-PS, supra). This letter shows that Rascher and Brandt also had a close personal relationship as he had met Brandt's wife and was expecting a social visit in January 1942.

On 21 March 1942, Brandt informed Sievers, who had contacted him on 9 March with an inquiry concerning the high altitude experiments, that these experiments were already in progress on concentration camp inmates in Dachau. Himmler had approved such experiments on condition that Rascher would cooperate in them. (1581a-PS, Pros. Ex. 48, R. 175).

On 13 April 1942, Brandt informed Rascher that Himmler had obtained his interim report on high altitude experiments. On that occasion, Brandt expressed the wish that Rascher might continue his experiments with the same success he had had so far. (1971c-PS, Pros. Ex. 50, R. 180). The report reveals that several of the experimental subjects had been killed after having been exposed to a simulated height of 12 kms for 30 minutes. During the autopsy, the heart of one of the victims started to beat again and continued to beat for a certain time. The report also stated that: "The extreme, fatal experiments will be carried out on specially selected VP's, otherwise it would not be possible to exercise the rigid control..." (1971a-PS, Pros. Ex. 49, R. 175). In his report of 16 April 1942, Rascher stated that they had repeated the experiments by killing subjects at a simulated height of 12 kms and then attempting to restore the heart activity of the four victims. (NO-218, Pros. Ex. 56, R. 186). Brandt had knowledge of this report as, in his letter to Rascher of 27 April, he informed the latter that Himmler had read this report with interest and requested an overall report from Rascher on the experiments carried out so far in order to present it to General Field Marshal Milch. (NO-219, Pros. Ex. 59, R. 190). When Himmler read Rascher's first report (1971(a)-PS, supra), he issued the order that prisoners

condemned to death, who had been exposed to experiments which had endangered their lives and who had survived them, should be pardoned to concentration camps for life. As, until 20 October 1942, only Poles and Russians had been used for this type of experiments, Rascher contacted Brandt as to whether the "amnesty" applied to them. (1971(d)-PS, Pros. Ex. 52, R. 183). Brandt informed the SS office in Munich on 21 October that Himmler's amnesty did not apply to Poles and Russians. (1971(e)-PS, Pros. Ex. 53, R. 183).

Brandt was fully aware of the fact that fatalities were occurring in the high altitude experiments. In a letter from Mrs. Rascher to him, dated 13 April 1942, she asked permission to make colored photos of the freshly dissected bodies since, as a rule, it was only permitted to take black and white pictures within the concentration camps. (1581(b)-PS, Pros. Ex. 54, R. 184). Brandt obligingly informed Gluecks that Himmler had agreed to Rascher's making colored photographs in connection with his experiments in Dachau. (1581(c)-PS, Pros. Ex. 55, R. 185).

On 20 July 1942, Rascher submitted to Brandt the final report, which had been prepared by him, Ruff, and Romberg, on the high altitude experiments. Himmler had expressly ordered that this report should be forwarded to Brandt. Rascher requested Brandt to submit to Himmler an accompanying letter for another copy of the report which was to be forwarded to Field Marshal Milch. (1607(a)-PS, Pros. Ex. 65, R. 204). This report was, in fact, sent to Milch by Himmler on 25 August 1942, with the request that Milch permit Rascher and Romberg to explain the experiments to him and to show a motion picture. Himmler considered the results of the experiments so important for the Luftwaffe that he was convinced that

Milch, having seen the picture, would inform Goering about them. (1607(b)-PS, Pros. Ex. 67, R. 213). As Milch's invitation was not immediately forthcoming, Brandt was approached on 26 August by the defendant Sievers on behalf of Rascher and informed that Rascher feared that somebody other than he and the defendant Romberg had already reported to Milch on the high altitude experiments. Sievers did not share this opinion with Rascher "for who else would have given the report except Rascher and Romberg?" (NO-221, Pros. Ex. 68, R. 213). On 29 August, Brandt sent a reply to Sievers, stating that Rascher's assumption was not correct. Himmler had written to Milch only a few days before and Milch himself would issue the necessary orders for the delivery of the Rascher-Romberg report. Brandt also enclosed a copy of Himmler's letter to Milch. (NO-222, Pros. Ex. 69, R. 215). When Milch informed Himmler on 31 August 1942 that he intended to invite Rascher and Romberg to deliver the lecture and show the motion picture (343b-PS, Pros. Ex. 70, R. 215), Brandt immediately informed Rascher and Sievers of this event. (NO-223, Pros. Ex. 71, R. 215).

On 3 October, Rascher again approached Brandt with the suggestion that he would like to report personally to Himmler on the "Dachau experiments". Brandt advised him, however, that that would not be possible as Himmler would be absent from Headquarters for a considerable time. He, therefore, asked Rascher to submit his report in writing as soon as possible. He, Brandt, would forward it to Himmler by courier. He then went on to say:

"At the moment it is not possible to render a decision on the present state of the high altitude experiments, on which you were, unfortunately, not able to report to Field Marshal Milch. As soon as the Reichsfuehrer SS comes back from his journey, I will ask him what he orders in this respect." (NO-293, Pros. Ex. 74, R. 220).

That Rascher and Romberg had not been given an opportunity to report to Milch in person was a matter of deep concern to the defendant Sievers. On 21 October 1942 he asked Brandt's advice whether he should write to Hippke on this subject and inform him that Rascher and Romberg had been ordered by Himmler to report only to Milch in person. Such a measure would persuade Rascher and Romberg, who were highly offended, to cooperate further in the experiments. Sievers also requested Brandt's support in again obtaining the low pressure chamber which was necessary for the experiments. He stated:

"The deep freezing experiments are terminated now, so that the continuation of the high altitude flying experiments, as desired by the Reichsfuehrer SS, can now begin. In this connection, we need once more the low pressure chamber, but this time with differential pumps, as otherwise large-scale altitude tests cannot be carried out. The new experiments will also serve to conclude the habilitation thesis of Rascher. The putting at our disposal of the low pressure chamber, however, will be possible then only, if the Reichsfuehrer SS writes in person to Field Marshal Milch concerning this." (NO-226, Pros. Ex. 75, R. 220).

Brandt continued to aid and abet the criminal experiments by Rascher and his collaborators in the Dachau Concentration Camp until the summer of 1944.

C. Freezing Experiments (Indictment, Par. 6 (B))

For a description of the criminal nature of these experiments, see Prosecution's brief on the defendant Jievers.

The defendant Rudolf Brandt gave an accurate and detailed description of the freezing experiment in his affidavit. (NO-242, Pros. Ex. 80, R. 230). Brandt's knowledge and support of the freezing experiments is not only proved by this affidavit, but also by many other documents in the record.

On 3 October 1942, Rascher wrote to Brandt with a personal letter that the freezing experiments had been concluded "with the exception of those on warming with body heat". A report by him and Holzlochner was to be delivered at a Luftwaffe conference on freezing on 25 October in Nurnberg and Rascher asked Brandt to obtain Himmler's approval for this. Rascher's letter further reveals that Brandt had passed down Himmler's request of 22 September 1942 that the experiments on warming through body heat should be conducted. After giving some details on the high altitude experiments, Rascher expressed his opinion that Brandt was "informed of this whole business long ago" and concluded his letter by thanking Brandt very much for his efforts. (NO-285, Pros. Ex. 86, R. 214).

Four days later, the commander of the Dachau Concentration Camp sent Brandt a wire with the request to instruct SS Dr. Adolfuehrer Gluecks of the RSH. (Reichs Main Security Office) "to send from Ravensbruck to Dachau the four women wanted by Stabsarzt Dr. Rascher for his experiments". Brandt complied with this request on 8 October. (1319-P3,

Pros. Ex. 87, R. 247-8). The female concentration camp inmates were actually used by Rascher for re-warming of the victims of the freezing experiments 'by animal warmth'. (NO-323, Pros. Ex. 94, R. 325; 1616-P3, Pros. Ex. 105, R. 342).

On 11 November 1942, Brandt made arrangements with the defendant Gebhardt for a meeting with Rascher in which the latter would have the opportunity to report to Gebhardt on the freezing experiments. Brandt informed Gebhardt that further freezing experiments would be carried out in the near future. (NO-314, Pros. Ex. 98, R. 331). Brandt further approached Pohl on behalf of Rascher on 20 November and requested that Rascher should "be assisted as much as possible in his experimentation at Dachau". He further asked Pohl to issue orders that the clothing plant in Dachau should assist Rascher by procuring the necessary experimental clothing for the freezing experiments. (NO-287, Pros. Ex. 100, R. 333). Brandt sent a copy of this letter to Rascher. On 13 December 1942, Fimmler gave his permission for the further execution of high altitude and freezing experiments, especially with dry cold. This letter was passed down by Brandt to Rascher, the Ahnenerbe, and other SS offices concerned. (1612-P3, Pros. Ex. 79, R. 229).

On 28 January 1943, the defendant Sievers forwarded to Brandt a memorandum by Rascher on his discussion with Grawitz and the defendant Poppendick. In the covering letter, Sievers requested Brandt's opinion as to what attitude he and Rascher were to take in respect to their position with Grawitz.

What Sievers wanted to achieve was an intervention by Brandt with Himmler on his behalf as he had been criticized by Grawitz for interfering in medical matters.

The memorandum by Rascher on the conference with Grawitz and Poppendick, which Brandt received with Sievers' letter, ~~shows that further freezing experiments with dry cold were to be performed so that they would~~ "have a few hundred cases." The importance of Brandt's position and of the part he played in the freezing experiments is proved by the fact that Grawitz, during this rather short discussion, told Rascher twice that he would inform Brandt about his opinion concerning Rascher and his collaboration with him. (NO-330, Pres. Ex. 103, R. 335-339).

Brandt was informed of the fact that Himmler had given Rascher permission to carry out additional freezing experiments in the Concentration Camps Auschwitz and Lublin. On 9 March 1943, he informed Grawitz to the effect that Himmler had given such authorization. (1615-PB, Pres. Ex. 109, R. 350).

On 14 March, Rascher sent Brandt a description of his conference with Generaloberstabsarzt Hippke, the Chief Medical Officer of the Luftwaffe. Rascher wished to be transferred from the Luftwaffe to the SS and Hippke tried to persuade him to stay. In this conference Rascher discussed with Hippke, among other things, the possibility of combined high altitude and freezing experiments on human beings. (NO-270, Pres. Ex. 110, R. 351). That Brandt supported Rascher in his attempt to have himself transferred to the SS is proved by a file note of Sievers' dated 29 January 1943 which lists a conference with

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Brandt, on this matter. (NO-238, Pros. Ex. 104, R. 340; NO-538, Pros. Ex. 122, R. 379).

On 4 April 1943, Rascher wrote to Brandt that another series of dry freezing experiments had been carried out on inmates of the Dachau Concentration Camp during a period of very cold weather. The experimental subjects were exposed to cold of -6° C. in the open air for fourteen hours and had reached an internal temperature of 25° C. (NO-292, Pros. Ex. 111, R. 354). Brandt acknowledged receipt of Rascher's letter on 16 April and informed him that Himmler received his "report concerning the freezing experiments on human beings exposed to the open air". He asked Rascher to contact the defendant Gebhardt who had received this report for study from Himmler. A copy of this letter was forwarded by the defendant Brandt to Grawitz. (NO-241, Pros. Ex. 113, R. 355). A conference between Rascher and the defendant Gebhardt took place in Hohenlychen on 14 May in the presence of the defendant Fischer. Gebhardt discussed with Rascher the freezing experiments and other experimentation carried out in the Dachau Concentration Camp and invited Rascher to collaborate with him. Rascher feared to lose his independence and turned to Sievers to settle this affair in a tactful way as Gebhardt was a very close friend of Himmler. (NO-231, Pros. Ex. 115, R. 360). Sievers, in turn, approached Brandt in this matter on 22 May and requested information whether Himmler had given any definite directive to Gebhardt in regard to Rascher's sphere of action and work. He further asked Brandt's intervention on behalf of Rascher by saying,

"I entrust you with this affair and ask you particularly to use it only for your strictly personal information so that Dr. Rascher does not encounter any difficulties with SS-Gruppenfuehrer Professor Dr. Gebhardt." (NO-267, Pros. Ex. 117, R. 366).

When Rascher visited Gebhardt in Hohenlychen, the latter encouraged him to embark upon a career of a university lecturer. (NO-231, supra). Rascher followed this suggestion and Brandt supported him wholeheartedly and collaborated with the defendants Sievers and Blome to have Rascher appointed an academic lecturer. (NO-229, Pros. Ex. 118, R. 367; NO-290, Pros. Ex. 121, R. 373). That Rascher's thesis for habilitation was based on the freezing and high altitude experiments is proved by Rascher's memorandum on his medical training which he wrote for the purpose of his habilitation (NO-230, Pros. Ex. 115, R. 356) as well as other evidence. (NO-240, Pros. Ex. 112, R. 354).

Brandt's close connection with Rascher is further proved by the entries in the Sievers' Diary for 1944. On 21 January, Sievers discussed with Brandt further freezing experiments by Rascher. After Rascher's arrest, Brandt had conferences with Sievers on 18 and 28 April which obviously concerned ways to assist him. (3546-43, Pros. Ex. 123, R. 382).

The reports on Rascher's freezing experiments, all of which passed through Brandt's hands, show with crystal clarity the enormity of the crimes committed. Defense counsel seeks refuge in the proposition that only a doctor could understand these reports. Nothing could be further from the truth.

D. Gas Experiments (Indictment, Par. 6 (D))

From November, 1942 until the summer of 1944, experiments to determine the most effective treatment for wounds caused by mustard (Lost) gas were conducted in the Natzweiler Concentration Camp under the supervision of Professor Hirt of the University of Strassbourg. For a description of the criminal nature of these experiments, reference may be made to the brief on the defendant Sievers.

As in the case of the freezing and high altitude experiments (supra), Rudolf Brandt's pre-trial affidavit on Lost gas reveals his knowledge of these experiments. In this affidavit, Brandt admitted that the experimental subjects were concentration camp inmates who did not volunteer and that some of them died as a result of the experiments. (NO-372, Pres. Ex. 252, R. 1008). Moreover, documentary proof in the record shows clearly his collaboration with the defendants Karl Brandt and Sievers, with Hirt, Grawitz, Wimmer and others in these experiments.

On 7 July 1942, Himmler issued an order to the defendant Sievers that the Ahnenerbe Society should establish an Institute for Military Scientific Research. It was "to support in every possible way the research carried out by SS Hauptsturmfuehrer Prof. Dr. Hirt and to promote all corresponding research and undertakings". (NO-422, Pres. Ex. 33, R. 136). Hirt became a department chief in the Ahnenerbe and his criminal work was supported by Brandt and Sievers on behalf of Himmler.

On 2 June 1942, Sievers forwarded to Brandt a report of Hirt on his experiments in treating gas

wounds with vitamins. Hirt stated that he had not been able to conduct experiments on human beings because of the offensive against France, but he wanted to perform such experiments in order to determine the protective effect of vitamin treatment. (NO-097, Pros. Ex. 260, R. 1022).

Sievers' file note to Brandt, dated 3 November 1942, concerning the preparation of the Lost gas experiments reveals the fact that Hirt was charged with the execution of these experiments on concentration camp inmates in Natzweiler. In this memorandum Sievers complains that the camp officials in Natzweiler had not shown the proper spirit of cooperation in setting up an experimental station for Hirt. It was even suggested that the experimental subjects would have to be paid for. The memorandum concluded as follows: "To SS Obersturmbannführer Dr. R. Brandt to read in reference to our discussion of today and with the request of help in comradely fashion in setting up the necessary conditions at Natzweiler". (NO-098, Pros. Ex. 263, R. 1028). On 3 December 1942, Brandt replied that he had talked to Pohl and that the deficiencies Sievers complained of would be cleared up. He told Sievers that: "If further intervention on my part should be necessary will you please let me know." (NO-092, Pros. Ex. 180, R. 702).

In the experiments which were carried out there, doctors of the Luftwaffe worked with Hirt. (Holl, R. 1059, 1061). Oberarzt Wimmer, a Staff Physician of the Luftwaffe, was the principal collaborator of Hirt. Wimmer had been temporarily assigned to Hirt's Anatomical Institute in the Strasbourg University. On 24

August 1942, before the experiments actually started, Brandt requested the Chief of the SS Main Office to intervene so that Winner might remain at Hirt's disposal for the execution of the experiments. (NO-196, Pros. Ex. 261, R. 1027). In April 1943, Winner was scheduled to be transferred to another unit. Sievers, therefore, turned to Brandt and requested his immediate intervention as "the transfer of Dr. Winner means discontinuation of the gas experiments at Natzweiler and Strassbourg". Sievers stressed the point that "the practical knowledge gained by Dr. Winner through an extensive series of experiments can only be used by him (Hirt)" and advocated temporary transfer of Winner to the Waffen SS. Brandt complied with the request of Sievers and on 27 May 1943, approached the SS Medical Office under the defendant Gonzken with the request that Winner should be transferred to the SS as soon as possible as it was doubtful whether the experiments of Hirt could be continued without him. (NO-194, Pros. Ex. 265, R. 1033). He also approached Goernert, the Personal Consultant of Goering, by telephone on the 3rd and by letter on the 9th of June in order to make arrangements that Winner should remain at Hirt's disposal "for his war-important gas experiments". (NO-195, Pros. Ex. 266, R. 1033).

In the beginning of 1944, Hirt and Winner made a joint report on the "proposed treatment of poisoning caused by Lest". (NO-099, Pros. Ex. 268, R. 1035). This report shows on its face that experiments on human beings were performed by Hirt and Winner. It is significant to note that the report speaks of heavy, medium and light wounds caused by Lest.

Brandt received a copy of this report from the defendant Sievers on 11 April 1944. (NO-015, Pros. Ex. 275, R. 1039).

Approximately 220 inmates of Russian, Polish, Czech and German nationality, were experimented on with gas, of whom about fifty died. They did not volunteer. (Holl, R. 1052, 1057). See also the testimony of Nales. (transcript, 30 June).

Further proof of Brandt's collaboration in the gas experiments is to be found in Sievers' Diary for 1944. (3546-PS, supra, entry of 4 March).

B. Typhus Experiments (Indictment, Par. 6 (J))

For a description of the typhus experiments carried out by Stabsarzt i. Prof. Eugen Haagen in the Natzweiler Concentration Camp, reference is made to the Prosecution's briefs against the defendants Schroeder and Rose.

Brandt's knowledge of the typhus experiments carried out by Haagen in the Natzweiler Concentration Camp is apparent from statements in his affidavit. (NO--370, Pros. Ex. 294, R. 1385-4). Moreover, the proof has shown that Brandt supported the defendant Sievers in providing Haagen with 400 concentration camp inmates for this type of experimentation. Brandt admitted in his affidavit that these experimental subjects did not volunteer. Haagen himself testified to the same effect. (R. 9541-2). The testimony of the witness, Georg Hirtz, proves that Haagen had tested his vaccine at Schirmeck, a sub-camp of the Natzweiler Concentration Camp, in the summer of 1943. Approximately 20 Polish inmates were used in these experiments and two of the experimental subjects died.

(R. 1293). This testimony is corroborated by the notes on Haagen's experiments kept by Miss Crodel, his assistant. (NO-3852, Pres. Ex. 521, R. 9660). The witness, Edith Schmidt, testified about another series of experiments carried out by Haagen at Natzweiler in the summer of 1944. Approximately two-hundred inmates were experimented upon, with about fifty of the experimental subjects, including control persons, dying. Persons of all nationalities were used as experimental subjects, with Gypsies predominating. (Schmidt, R. 1370-1; Haagen, R. 9607). See also the testimony of Hales (transcript, 30 June).

Brandt's collaboration in Haagen's experiments is proved by documentary evidence in the record. On 19 May 1944, the defendant Sievers wrote to Pohl in connection with the procurement of 200 concentration camp inmates for Haagen's typhus experiments. This letter reveals that Pohl had already transferred 100 suitable concentration camp inmates to Natzweiler on the request of Sievers in Autumn 1943. A copy of this letter was sent to Brandt for information. (NO-008, Pres. Ex. 304, R. 1398). Moreover, Brandt reported to Sievers on 6 June 1944 and announced that Brandt had informed Himmler "as the matter seemed important enough". (NO-009, Pres. Ex. 305, R. 1400). Brandt would certainly not have been in a position to decide whether the matter was important enough or not if he would not have been fully acquainted with Haagen's typhus experiments.

F. Sea Water Experiments (Indictment, Par. 6 (G))

Experiments to make sea water potable were carried out in the Dachau Concentration Camp in the sum-

mor of 1944. For a detailed description of these experiments, reference is made to the prosecution's brief on the defendant Schroeder.

Brandt reveals in his affidavit considerable knowledge, why, where, and by whom these experiments were carried out. It is of significance that he admitted that "it was expected that some of the prisoners would die as a result of the experiments". He had no knowledge whether deaths occurred, but it is proved by the testimony of the witness Tschofenig that at least one of the experimental subjects died as a result of the sea water experiments. (R. 9339-40).

Documentary evidence proves the collaboration of Brandt in the sea water experiments. Brandt received the minutes of the sea water conference of 20 May 1944 as his handwritten notation on the first page of the report clearly shows. He forwarded these minutes to Hirmler. It was pointed out at this conference:

"The Chief of the Medical Service (Chef des Sanitaetswesens) is convinced that, if the Berka method is used, damage to health has to be expected not later than 6 days after taking Berkatit, which damage will result in permanent injuries to health and - according to the opinion of H.C.O. (Med.) (Unterarzt) Dr. Schaeffer - will finally result in death after not later than 12 days. External symptoms are to be expected such as drainage, diarrhea, convulsions, hallucinations, and finally death.

.....

"Since in the opinion of the Chief of the Medical Service (Chef des Sanitaetswesens) permanent injuries to health, that is, the death of the experimental subjects has to be expected, as experimental subjects such persons should be used as will be put at the dis-

posal by Reichsfuehrer SS."
(NO-177, Pres. Ex. 133, R. 479).

On 28 June 1944, Grawitz wrote to Himmler that the defendant Gebhardt, together with Gluecks and Nebe, had agreed to the experiments and that Nebe had proposed the use of Gypsies for that purpose. Himmler agreed to this with the proviso that three members of another race should be added to the experimental subjects to be used for control purposes as Gypsies were not comparable to Germans. (NO-179, Pres. Ex. 135, R. 485). That Brandt had full knowledge of this decision is proved by his letter of 8 July, in which he informed Grawitz accordingly. On 20 July, the defendant Boiglbock had a preparatory conference concerning sea water experiments with Rascher's successor, Dr. Bloetner, in Dachau. Bloetner reported on this conference to Grawitz and forwarded a copy of the letter to Brandt for information. (NO-182, Pres. Ex. 137, R. 481).

These facts prove that Brandt, with full knowledge of their criminality, willingly collaborated in the sea water experiments.

G. Other Experiments

The Prosecution relies primarily on the position of the defendant Rudolf Brandt in connection with the charge of responsibility for the malaria, epidemic jaundice and sulfanilamide experiments.

Malaria experiments were carried out by Dr. Claus Schilling in the Dachau Concentration Camp from 1942 to 1945. More than 1,000 inmates were used in these experiments and several hundred died as a result. Himmler gave his permission for the

experimentation of Schilling. (NO-856, Pros. Ex. 125, R. 392). As the experiments went on for years on a very large scale under the protection of Hitler, it cannot be concluded that Brandt was ignorant of them. Brandt's close connection with Rascher, who himself carried out experiments on concentration camp inmates in Dachau, (supra) and Sievers, who often visited Dachau and was collaborating with Schilling (see Prosecution's brief on the defendant Sievers), made his knowledge of the malaria experiments a certainty. For a full description of the malaria experiments, reference is made to the Prosecution's brief on the defendant Rose.

Brandt's knowledge of the sulfanilamide experiments is proved by the fact that Gebhardt's preliminary report on these experiments was received by his office on 9 September 1942. (NO-2734, Pros. Ex. 373, R. 5622). The report shows on its face that sulfanilamide experiments were carried out on inmates of the Ravensbruck Concentration Camp. It is made clear that gas gangrene was artificially provoked, that wood shavings, edema malignum and earth were used to create infections similar to battle wound infections, and that some of the experimental subjects remained untreated for control purposes. In short, this report gives a complete picture of the sulfanilamide experiments carried out by Gebhardt.

Rudolf Brandt's familiarity with the epidemic jaundice experiments is evident from his affidavit. (NO-371, Pros. Ex. 186, R. 733). In this affidavit, Brandt admitted knowledge of the fact that concentration camp inmates were used for these experiments and that some of the involuntary experimental subjects died as a result.

In a letter of 16 June 1943 to Grawitz, Himmler gave his approval to the use of eight Jews of the Polish resistance movement for epidemic jaundice experiments in the Sachsenhausen Concentration Camp. Brandt sent a copy of this letter to Pohl. (NO-011, Pros. Ex. 188, R. 737). In his request for experimental persons, which of necessity came to Brandt's knowledge, Grawitz had pointed out expressly that "cases of death must be anticipated." (NO-010, Pros. Ex. 187, R. 735). That these experiments were carried out by Dohnen in the Sachsenhausen Concentration Camp and that some of the experimental subjects died was admitted by Brandt in his affidavit. (NO-371, supra). Even the defense witness Gutzeit, who collaborated with Dohnen, admitted that Dohnen worked in Sachsenhausen.

III. MURDER AND DEPORTMENT OF POLISH NATIONALS
(Indictment, Par. 8)

For a description of the original nature of the extermination of Polish nationals allegedly suffering from incurable tuberculosis, reference is made to the Prosecution's brief on the defendant Blome.

Brandt received a letter on 3 May 1942 concerning Greiser's suggestion to exterminate tubercular Poles from Koppe, the Higher SS and Police Leader at Posen. This report shows on its face that it was proposed to subject many thousand tubercular Poles to "special treatment". (NO-247, Pros. Ex. 197, R. 748). That "special treatment" meant extermination is not only apparent from the contents of Koppe's letter, but was also admitted by the defendant Blome. (R. 4791). Brandt acknowledged receipt of this let-

ter on 14 May and informed Koppe that he had forwarded Greiser's suggestion to the Chief of the Security Police so that the latter might take the matter up with Greiser himself. (NO-248, Pros. Ex. 198, R. 749). This "suggestion" of Greiser's was explained in more detail in a report by him to Himmler of 1 May 1942, in which he, together with the defendant Blome, advocated the outright extermination of approximately 35,000 tubercular Poles in order to remove this alleged source of contagion for the German settlers in the Warthegau. (NO-246, Pros. Ex. 196, R. 747).

Greiser himself approached Brandt in the most cordial terms on 25 June 1942 in order to remind him of the top secret report from the Reich Main Security Officer, which had been sent to Brandt, concerning the "special treatment" of the tubercular Poles. Greiser assumed that the "whole matter" had been handed over to Brandt "without further ado". (NO-252, Pros. Ex. 200, R. 750-1).

On 27 June 1942, Himmler informed Greiser that he approved the proposal that tubercular Poles and stateless persons of Polish origin who lived within the territory of the Province Warthegau and who were infected with open tuberculosis should be handed over for "special treatment". Copies of this letter of Himmler's were sent to Koppe and the Reichs Main Security Office by the defendant Rudolf Brandt. (NO-244, Pros. Ex. 201, R. 752).

Brandt admitted in his affidavit that at least a part of the tubercular Poles was exterminated while the others were taken to death camps where they were

left to die. (NO-441, Pros. Ex. 205, R. 760). Brandt tried to explain, not to say repudiate, this affidavit by testifying that he made the statements on the basis of documents shown to him in pre-trial interrogations. He stressed the point, however, that he insisted that the wording of one sentence be changed. This sentence originally read: "As a result of the suggestions made by Blome and Greiser, 8 - 10 thousand Poles were exterminated." He changed the expression "8 - 10 thousand" to "numerous". (R. Brandt, R. 4891, 4953, cf. R. 761). This proves in itself that Brandt made his statement on the basis of the knowledge he obtained as a close collaborator of Himmler. The documents do not show the execution of "numerous" Poles. There is no document in evidence or in possession of the Prosecution which would give the basis for this statement. It is, therefore, clear that Brandt's pre-trial statement is founded upon his own knowledge and is entitled to full weight.

IV. SKELETON COLLECTION (Indictment Par. 7)

In response to a request by Rudolf Brandt, on 9 February 1942 the defendant Sievers submitted to him a report by Dr. Hirt of the University of Strassbourg on the desirability of securing a Jewish skeleton collection. (NO-085, Pros. Ex. 175, R. 695). In this report, Hirt advocated outright murder of "Jewish Bolshevik Commissars" for the procurement of such a collection. He stated:

"By procuring the skulls of the Jewish Bolshevik Commissars, who personify a repulsive, yet characteristic subhumanity, we have the opportunity of obtaining tangible, scientific evidence. The actual obtaining and collecting of

these skulls without difficulty could be best accomplished by a directive issued to the Wehrmacht in the future to immediately turn over alive all Jewish Bolshevik Commissars to the Field Police."

These units were to report to a special office which would send out specialists to have photographs and anthropological measurements taken and ascertain the origin, birthdate and other personal data of the victims. Hirt further stated:

"Following the subsequently induced death of the Jew, whose head must not be damaged, he will separate the head from the torso and will forward it to its point of destination in a preservative fluid within a well-sealed tin container especially made for this purpose. On this basis of the photos, the measurements and other data on the head and, finally, the skull itself, the comparative anatomical research, research on race membership (Rassenzugehoerigkeit), the pathological features of the skull form, the form and size of the brain and many other things can begin. In accordance with its scope and tasks, the new Strassburg Reich University (Reichsuniversitaet Strassburg) would be the most appropriate place for the collection of and research upon these skulls thus acquired." (Emphasis supplied).

On 27 February 1942, Brandt informed Sievers that Himmler would support Hirt's work and would place everything necessary at his disposal. Brandt requested Sievers to inform Hirt accordingly and to report again on Hirt's work. (NO-090, Pres. Ex. 176, R. 699).

Hirt's murderous and inhuman plan was carried out in a way which differed but slightly from the suggestion made in his preliminary report. (NO-085, supra).

The proof has shown that it was decided to preserve the whole skeletons of the victims rather than merely the skulls. On 2 November 1942 Sievers requested Brandt to make the necessary arrangements with the Reich Main Security Office for providing 150 Jewish inmates from Auschwitz to carry out this plan. (NO-086, Pres. Ex. 177, R. 699). On 6 November Brandt informed Adolf Eichmann, the Chief of Office IV-B-4 (Jewish Affairs) of the Reich Main Security Office to put everything at Hirt's

disposal which was necessary for the completion of the skeleton collection. (NO-089, Pros. Ex. 179, R. 702).

From Siever's letter to Eichmann of 21 June 1943, it is apparent that SS Hauptsturmfuehrer Boger, a collaborator of the Ahnenorbe Society, carried out the preliminary work for the assembling of the skeleton collection in the Auschwitz Concentration Camp on 79 Jews, 30 Jewesses, 2 Poles, and 4 Asiatics. In this letter, Sievers stated that Boger had to interrupt his work because of the danger of infectious diseases in the camp. Sievers requested that the inmates on whom Boger had carried out this work be transferred to the Natzweiler Concentration Camp because further activities in Auschwitz were impossible due to the danger of infection. Special accommodation for the thirty women was to be provided in the Natzweiler Concentration Camp "for a short period". The defendant Brandt received a copy of this letter on 22 June. (NO-087, Pros. Ex. 181, R. 702).

The statement of the camp commander of the Natzweiler Concentration Camp, SS Hauptsturmfuehrer Josef Kramer, reveals that approximately 80 inmates of the Auschwitz Concentration Camp, among them females, were transferred to the Natzweiler Concentration Camp and killed there by gas on the request of Hirt in the beginning of August 1943. A special gas chamber had been built for this purpose. The corpses of the victims were sent in three shipments to the Anatomical Institute of Hirt in the Strassbourg University. (NO-807, Pros. Ex. 185, R. 732). This evidence is corroborated by the testimony of the witness Henrypierre. He testified that in the

beginning of August 1943, the principal autopsy technician of the Anatomical Institute, Bong, received the order from Hirt to prepare the tanks in the cellar of the Institute for approximately 120 corpses. In intervals of a few days, three shipments of corpses, 30 female, 30 male and 26 male, arrived by truck from an unknown place. All of these victims were Jewish. These corpses were preserved in the cellar of the Anatomical Institute in the tanks prepared by Bong. (Henrypierre, R. 712-4). See also the affidavit of Wagner. (NO-881, Pros. Ex. 280, R. 1074). Boger was ordered to prepare plaster casts of the victims. (5546-PS, Pros. Ex. 123, R. 382, entry for 2 February 1944). Early in September 1944, when the Allied armies were threatening Strasbourg, Sievers approached the defendant Brandt with the request for instructions as to what should be done with the Jewish bodies, which were still stored in the tanks in the cellar of the Anatomical Institute. He informed Brandt that Hirt would be able to "deflesh" the corpses and thus render them unrecognizable, but in this case part of the work would have been done in vain "and it would be a great scientific loss for this unique collection because human casts could not be made afterwards. The skeleton collection is not conspicuous. Viscera could be declared as remnants of corpses, apparently left in the Anatomical Institute by the French, and ordered to be cremated." Sievers requested a directive from Brandt whether the collection should be preserved, partly dissolved, or completely dissolved. (NO-088, Pros. Ex. 182, R. 704).

From the memorandum of SS Hauptsturmfuehrer Berg to Brandt, it is apparent that it was first decided to destroy the evidence of these brutal crimes, but with a temporary improvement in the military situation, this decision was rescinded. Sievers informed Berg on 21 October 1944 that, in compliance with the orders he had received previously, the dissolution of the collection had been completed. The order to destroy the collection was passed down by Baumert, a subordinate of Brandt. (NO-091, Pros. Ex. 183, R. 705). But such was not the case. Hirt had ordered Berg and his assistant, Meyer, to cut up the 86 corpses and have them cremated in the Strassbourg crematorium, but these two men alone were unable to carry out this enormous task. A number of corpses remained undissected and were left in the tanks, together with partially dissected corpses, in order to create the impression that they were used for normal anatomical research. (Henrypierre, R. 715; NO-881, supra).

The pictures of these corpses and of the gas chambers in the Natzweiler Concentration Camp, where the victims of the Jewish skeleton collection were murdered, taken by the French authorities after the liberation of Strassbourg, tell the grim story of this mass murder more vividly than witnesses and documents ever could. (NO-483, Pros. Ex. 184, R. 724; NO-807, supra).

The significant character of Brandt's part in the crimes charged in the Indictment is typified by the proof outlined above. Hirt's original proposal was sent by Sievers to Brandt, who secured Hitler's approval. Thereafter, all the details, for which

Himmler obviously had no time, were handled by Brandt and Bievers. Indeed, if Himmler were in the dock, he would tell us that he had no notion that this collection was to involve murder and that he thought they were going to take dead soldiers. Such a defense would be no more credible than are the excuses of Brandt. He knew from the day he received Hirt's report that this was mass murder. He arranged for the victims to be supplied in Auschwitz. He ordered that the collection be destroyed. Brandt's guilt is many fold greater than the brutal and insensible Kramer, who personally gassed the Jews in Natzweiler.

V. CONCLUSION

There is nothing to be said in mitigation of the guilt of Rudolf Brandt. It is not disputed that he actively participated in every crime charged in the Indictment, with the exception of euthanasia. He was a top administrative assistant to Himmler. While the basic decisions were made by Himmler, Brandt saw to it they they were carried out. That he was not as important a man as Himmler in no way serves to exonerate him or mitigate his guilt. His plea is the same as most criminals on trial in Nurnberg, that Hitler and Himmler were the exclusive repository of all guilt. If the principle of relative guilt has any place in the trial of a man directly connected with the murder of thousands of persons, which the Prosecution submits it has not, then the significance of Brandt's position and his criminal activities comes into clear relief by comparison with that of the camp commander of Dachau and many of his subordinates, who have long since been

sentenced to death for their participation in some of the same crimes charged in this Indictment.

The doctrine of superior orders does not apply to Brandt.

The Prosecution submits that the evidence proves that Rudolf Brandt was a principal in, accessory to, ordered, abetted, took a consenting part in, was connected with plans and enterprises involving, and as a member of an organization or group connected with, the commission of medical experimentation on human subjects without their consent, in the course of which experiments murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts were committed, the murder and inhumane treatment of thousands of tubercular Poles, and the murder of no less than 86 Jews for a skeleton collection. His guilt has been established under Counts I, II, III and IV of the Indictment.

M I L I T A R Y T R I B U N A L N O. I

CASE NO. 1

CLOSING BRIEF FOR
THE UNITED STATES OF AMERICA
AGAINST
FRITZ FISCHER AND HERTA OBERHEUSER

Nurnberg,
13 June 1947.

James M. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

For:

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War Crimes



INTRODUCTION

It is alleged, in essence, under Count I of the Indictment, that the defendants Fischer and Oberheuser, conspired and agreed with others, pursuant to a common design, to perform medical experiments on involuntary human subjects; under Counts II and III (War Crimes and Crimes Against Humanity, respectively), that they were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving medical experimentation on involuntary human subjects; under Count IV, that Fischer was a member, after 1 September 1939, of the SS, an organization declared to be criminal by the International Military Tribunal.

The acts recognized as War Crimes and Crimes Against Humanity are set forth in Paragraphs 1(b) and (c) of Article II of Control Council Law No. 10. Membership in an organization declared criminal by the International Military Tribunal is defined as a crime in Paragraph 1(d) of the same Article. The criteria of criminality are set forth in Paragraph 2 of Article II of Control Council Law No. 10.

I. POSITIONS OF RESPONSIBILITY

The defendant Fischer joined the Allgemeine SS in February 1934, and the NSDAP in 1939. In the latter year, he joined the Waffen SS, and was assigned to the SS unit in the Hohenlychen Hospital as a physician subordinated to the defendant Gebhardt. In June 1940, he was transferred to the SS regiment Leibstandarte "Adolf Hitler", and returned the same year to Hohenlychen as assistant physician to Gebhardt where he remained until May 1943. He then served as a surgeon on both the Eastern and Western Fronts

and, after having been wounded in August 1944, he was a patient in Hohenlychen. In December 1944, he was assigned to the Charity Hospital in Berlin, but returned again to Hohenlychen as Gebhardt's assistant in April 1945. In the Waffen SS he attained the rank of Sturmbannfuhrer (Major). (NO-559, Pros. Ex. 26, R. 129; Fischer, R. 4267-77).

The defendant Oberheuser joined the League of German Girls (B.D.M.) in 1935 and held the rank of "block leader." In August, 1937, she became a member of the Nazi party. She was also a member of the Association of National Socialist Physicians. She volunteered for the position of a camp doctor in the women's department of the Ravensbruck Concentration Camp in 1940, and remained there until June 1943. She then was given a position as assistant physician in the Hohenlychen Hospital under the defendant Gebhardt. (NO-683, Pros. Ex. 27, R. 129-30; Oberheuser, R. 5485).

II. PERSONAL PARTICIPATION IN CRIMINAL EXPERIMENTS

Fischer and Oberheuser are charged with having participated in the sulfanilamide and bone, muscle, nerve regeneration and bone transplantation experiments particularized in Paragraphs 6(E) and (F) of the Indictment. Fischer also had knowledge of the sepsis experiments and the freezing experiments which were carried out in the Dachau Concentration Camp. The charge against Oberheuser of having participated in sterilization experiments in Ravensbruck (Indictment, Paragraph 6 (I)) is hereby withdrawn.

A. Sulfanilamide Experiments (Indictment, Paragraph 6(E)).

The criminal character of and the participation of Fischer and Oberheuser in the sulfanilamide experiments are described in the Prosecution's brief against Gebhardt. Fischer does not deny his participation in these experiments.

He performed most of the operations. He defends himself on two grounds - first, that the experimental subjects had their alleged death sentences commuted to something less severe if they survived the experiments and, second, that he acted under superior orders from Gebhardt. The first defense has been dealt with at length in the brief on Gebhardt and will not be repeated here.

Paragraph 4(b) of Article II of Control Council Law No. 10 provides as follows:

"The fact that any person acted pursuant to the order of his government or of a superior does not free him from responsibility for a crime, but may be considered in mitigation."

Thus, the only question here presented is whether the Tribunal should consider superior orders as mitigating the guilt of Fischer. The Prosecution submits that it should not.

Fischer knew at the time he performed these experiments that he was committing a crime. He admitted that he would not normally have carried them out. (R. 4338-9). He did not concern himself with the question of whether the Polish girls had been tried by a tribunal or consented to the experiments. (R. 4339-40), although all he need have done was to ask them. He said he did not know how the subjects were selected. (R. 4342). As a trained physician he did know the pain, disfigurement, disability, and risk of death to which his experimental victims would be subjected.

No superior stood over Fischer with loaded gun and forced him to do an act against his will. He was not a Soldier on the field of battle. Hohenlychen was a long way from the confusion of the front lines. Fischer did not act in the spontaneous heat of passion. He had full time to consider and reflect upon his course of action.

He could have refused to participate in the experiments without fear of consequences. This he admitted in saying, "It was not a fear of a death sentence or anything like that, but the alternative was either to be obedient or be disobedient during war, and thereby set an example, an example of disobedience." (R. 4374). Such an admission removes any basis for mitigation. A soldier is always faced with the alternative of obeying or disobeying an order. If he knows the order is criminal, it is surely a hollow excuse to say it must be obeyed for the sake of obedience alone. When there is no fear of reprisal for disobedience and it is realized that the order is criminal, obedience constitutes a completely voluntary participation in the crime. Such is the case with Fischer. He just didn't want to set a "bad example". Moreover, the doctrine of superior orders cannot be considered in mitigation where such malignant crimes have been consciously and ruthlessly committed without the slightest military necessity.

The case against Oberheuser is equally clear. She, ~~became~~ ~~a~~ ~~concentration~~ ~~camp~~ ~~doctor~~ at Ravensbrück of her own free will. (Oberheuser, R. 5485). She assisted Gebhardt and Fischer regularly in the experiments. She examined the experimental subjects before the operations and was in charge of their post-operative care. She reported to Fischer about the progress of the experiments and was informed of all details in connection with them. She reported the three fatalities which she admitted occurred. (NO-477, Pros. Ex. 207, R. 779; NO-487, Pros. Ex. 208, R. 480-2).

The experimental subjects were taken care of only for a few days after the operation. They were badly neglected. (Magzka, R. 1436, 1443-4). Their care was entirely inadequate. (NO-873, Pros. Ex. 226, R. 906). Many of the subjects were

given neither medicine nor morphine by order of Oberheuser. (NO-877, Pros. Ex. 228, R. 918). They were given only bandages from time to time when the doctors felt like it. Sometimes they waited three days, sometimes four days. There was a terrible odor of pus in the rooms. The girls were forced to help each other. (Magzka R. 1444). The witness Broel-Plater testified that:

"My leg pained me; I felt severe pain, and blood flowed from my leg. At night we were all alone without any care. I heard only the screaming of my fellow prisoners, and I heard also that they asked for water. There was nobody to give us any water or bed pans." (R. 790).

The witness Karolewska testified that:

"I was in my room and I made the remark to fellow prisoners that we were operated on in very bad conditions and left here in this room, and that we were not given even the possibility to recover. This remark must have been heard by a German nurse who was sitting in the corridor because the door of our room leading to the corridor was open. The German nurse entered the room and told us to get up and dress. We answered that we could not follow her order because we had great pains in our legs and could not walk. Then the German nurse came with Dr. Oberheuser into our room. Dr. Oberheuser told us to dress and go to the dressing room. We put on our dresses; and, being unable to walk, we had to hop on one leg going into the operating room. After one hop we had to rest. Dr. Oberheuser did not allow anybody to help us. When we arrived at the operating room quite exhausted, Dr. Oberheuser appeared and told us to go back because a change of dressing would not take place that day. I could not walk, but somebody, a prisoner whose name I do not remember helped me to come back to the room." (R. 822).

Oberheuser also participated in the customary atrocities in concentration camps. Zofia Baj said in her affidavit that, "I saw Oberheuser beating up and throwing out women who had come to have their legs looked after which had been badly cut during their work. She did not give them any treatment." (NO-871, Pros. Ex. 227, R. 913). Helena Piasecka said, "In the beginning of 1942 there was an old German woman of

about 80 years, wearing the green triangle on her arm, in the passage of the Revier. She asked Dr. Oberheuser for some pills as she was ill and could scarcely move. Oberheuser asked her why she was in the camp. As she did not reply, Oberheuser kicked her. The woman fell to the ground crying. Oberheuser laughed and told her to get up and go away, and gave her no medicine. I was in the passage also, and witnessed this." (NO-864, Pros. Ex. 229, R. 923).

Oberheuser confessed in her pre-trial affidavit that she had killed sick inmates by injections. As she put it, "It was no rarity at Ravensbruck, that persons who were already approaching death, were killed by injections. I myself gave 5 or 6 such injections." (NO-487, Pros. Ex. 208, R. 780). With considerable reluctance, she confirmed this admission on the witness stand under questioning by the Tribunal. (R.5527-8). That any doctor should consider such killings as ethically permissible, not to speak of legal, is unthinkable.

It is to be expected that Oberheuser, and perhaps Fischer, will advance the argument that they were not in a position to have prevented the experiments and hence should be exonerated. Such an argument is completely without merit. The only question is whether the defendant participated in the crime, not whether it could have been prevented by the defendant. The Jews would have been exterminated even without the maniacal ravings of Streicher. A concentration camp guard can say with considerable truth that, if he had not committed a certain crime, someone else would have. But this is simply no defense; nor is it a mitigating factor. There may well have been other persons as willing to commit crimes as Fischer and Oberheuser, but the significant point is that Fischer and Oberheuser did in fact commit them.

B. Bone, Muscle and Nerve Regeneration and Bone Transplantation Experiments (Indictment, Paragraph 6 (F)).

The criminal character of and the participation of Fischer and Oberheuser in these experiments are set forth in the Prosecution's brief on Gebhardt.

Fischer admitted in his affidavit that he prepared the surgical plan for these experiments and that he was directed by Gebhardt to carry out the experiments in cooperation with Stumpfegger. He introduced Stumpfegger, Schulze and Schulze-Hagen to the camp doctor at Ravensbruck. Fischer personally chose for himself the performance of those operations dealing with muscle regeneration and he described the operational technique in detail. (NC-328, Pros. Ex. 206, R. 774).

Fischer admitted that he removed the scapula of an inmate of Ravensbruck which was transplanted to the patient Ledisch in Lohenlychen. (Fischer, R. 4317). He knew this to be a crime as he said he "urged professional and human objections up until the evening before the operation was performed but Gebhardt ordered us to carry out the operations." (NC-328, supra). Fischer's testimony on this experiment showed an unbelievable lack of information. He said he did not know whether the inmate from whom he removed the shoulder blade was a man or a woman. He stated in a pre-trial interrogation that the experimental subject's arm had been previously amputated; on the stand he testified it was only the hand which had been amputated. In any case, he could not testify from his own knowledge that either the hand or the arm had been

previously removed. Although he conducted the operation himself, he said that he made no examination of the subject and did not observe whether there had been an amputation. He allegedly saw nothing but the back of the victim. He did not know whether the subject consented to the vivisection. He did not know whether the subject was killed following the operation. Fischer did not see the subject again. (Fischer, R. 4356 - 9). Fischer's reluctance to give any details on this experiment is perhaps explained by the fact that the Prosecution's proof shows that Fischer himself amputated the whole arm. (Magzka, R. 1448).

The witness, Magzka, testified that Fischer and Oberheuser participated in the bone experiments in cooperation with Stumpfegger. (R. 1458). Gebhardt admitted that Fischer was his liaison man to Stumpfegger. (R. 4090).

Fischer testified that he did not participate in any of the experiments after the middle of December, 1942. (R. 4370). This is clearly contradicted by the affidavit of Sofia Bal, which proves that Fischer performed a bone experiment on her on 23 February 1943. She said:

"My second operation was carried out on 23 February 1943. As I had not got up since my first operation I was too weak to resist. Magzka (Magzka) came into the room with Schildlausk before the operation and asked him what was going to be done. He answered that he did not understand anything about these operations and that he did not approve of them. He then asked Magzka (Magzka) what had been done with me before and she told him what she had seen on the radiographs.

"The second time I was operated on by Fischer who had come out in the hall to see if I was the person he wanted to operate on because the week before (6-2-43) I had been sent to the operation room by mistake and, after Fischer had seen me, he said I was not one of the persons he was going to operate

on that day. Maczka (Magzka) told me later on during this second operation my legs were opened up again and that the gaps between the two halves of the perones and closed by about 1 centimeter. During the operation another piece was removed from the four ends of the perones, but nothing was done to the shinbones. After that my legs were sewn up again, but a curved needle and about 20 centimeters of silk thread were left in the wound of my left leg. This gave me terrible pains later on and was removed by Treite in February 1945. Treite did not want to do it saying that he was not allowed to touch my legs, but then he changed his mind and did it. I had this needle and the thread for awhile, but I lost them when I left Ravensbrueck." (NO-871, Pros. Ex. 227, R. 914).

Oberheuser admitted that she assisted in the bone experiments in the same way as in the sulfanilamide experiments. (NO-487, Pros. Ex. 208, R. 782).

C. Other Experiments

The proof shows that Fischer had knowledge of criminal experiments on concentration camp inmates other than the sulfanilamide and bone experiments.

Gebhardt had at least two conferences with Rascher concerning his experiments at Dachau. The record of those conferences proves that Fischer was present at both of them. (NO-231, Pros. Ex. 116, R. 360).

Fischer was also connected with the sepsis experiments at Dachau. (See brief against Gebhardt). On a letter dated 7 September 1942 from Grawitz to Himmler, to which reports on the sulfanilamide and sepsis experiments were attached, Gebhardt wrote the following:

"16 September 1942.
Settled, after conversation with RF-SS.
Obersturmfuehrer W. Fischer had been
given new instructions for Ravensbrueck
and Dachau. Gebhardt." NO-2734, Pros.
Ex. 475, R. 5322). (Emphasis supplied).

III. CONCLUSION

Fischer and Oberheuser personally participated in the criminal sulfenilamide and bone, muscle, and nerve regeneration experiments in the Ravensbruck Concentration Camp. Fischer performed many of the operations. Oberheuser examined the Polish women before operation, assisted in the operations, and was in charge of post-operational care. Such care was negligent and inadequate. Five of the experimental subjects died as a direct result of the experiments and six others were later executed. All of the victims suffered great pain and many were permanently injured.

Oberheuser participated in other atrocities in Ravensbruck and admitted killing five or six inmates, who were ill, by injections.

Fischer was connected with plans and enterprises involving the high altitude and freezing experiments by Rascher and the sepsis experiments in Dachau.

The prosecution submits that the evidence proves that Fischer and Oberheuser were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving medical experimentation on human subjects without their consent, in the course of which experiments, murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts were committed. The guilt of Fischer has been established under Counts I, II, III, and IV of the Indictment. The guilt of Oberheuser has been established under Counts I, II, and III of the Indictment.

M I L I T A R Y T R I B U N A L N O. I

CASE NO. 1

CLOSING BRIEF FOR
THE UNITED STATES OF AMERICA
AGAINST

KARL GEBHARDT

Nurnberg,
16 June 1947.

James M. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

For:

Telford Taylor
Brigadier General, U.S.A.,
Chief of Counsel for War Crimes



INTRODUCTION

It is alleged, in essence, under Count I of the Indictment that Karl Gebhardt conspired and agreed with others, pursuant to a common design, to perform medical experiments on involuntary human subjects; under Counts II and III (War Crimes and Crimes Against Humanity, respectively), that he was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experimentation on involuntary human subjects; under Count IV, that he was a member, after 1 September 1939, of the SS, an organization declared to be criminal by the International Military Tribunal.

The acts recognized as War Crimes and Crimes Against Humanity are set forth in Paragraphs 1 (b) and (c) of Article II of Control Council Law No. 10. Membership in an organization declared criminal by the International Military Tribunal is defined as a crime in Paragraph 1 (d) of the same article. The criteria of criminality are set forth in Paragraph 2 of Article II of Control Council Law No. 10.

I. POSITIONS OF RESPONSIBILITY

The defendant Gebhardt held positions of great power and responsibility in the medical services of the SS in Nazi Germany. He joined the NSDAP in 1933 and the SS at least as early as 1935 (NO-671, Pros. Ex. 25, R. 126-7; Gebhardt, R. 4198, cf. NO-649, R. 4197). He took part in the Nazi Putsch of 1923, which aimed at the overthrow of the so-called Weimar Republic, the democratic government of Germany, being then a member of the illegal Free Corps, "Bund Oberland". (NO-671, supra., Gebhardt, R. 3959). When, in 1933, the hospital at Hohenlychen was founded Gebhardt was appointed Chief Physician of this institution (Gebhardt, R. 3943). In 1938, he became the attending physician to Himmler. He

was also personal physician to Himmler and his family. (NO-671, supra; Gebhardt, R. 3962). In 1940, Gebhardt was appointed Consulting Surgeon of the Waffen SS and, in 1943, Chief Clinical Officer (Oberster Kliniker) of the Reichsarzt SS and Police Grawitz. In the Allgemeine SS, Gebhardt attained the rank of a Gruppenfuehrer (Major General) and in the Waffen SS, the rank of a Major General in the Reserve. (NO-671, supra).

At the beginning of 1940, Gebhardt suggested to Himmler that the position of Consulting Surgeon to the Waffen SS be established. As a result, he was appointed to this position, by an order of Himmler dated 17 May 1940. According to this order, the military physicians and physicians in the hospital of the Waffen SS had to obey Gebhardt's clinical orders and all military authorities were requested to assist him and his staff. (Gebhardt, R. 3971-2).

Gebhardt's personal influence and intimate connection with Himmler were another source of considerable power. In order to appreciate his position of responsibility, it is necessary to keep in mind Himmler's almost unlimited powers in Nazi Germany in general and over the concentration camps in particular. Gebhardt's testimony on his relationship with Himmler is quite revealing on this point. Gebhardt's personal connections with Himmler were intimate and long lasting. Both were born in the same town and went to the same school and spent their youth together. Gebhardt's father was the physician of Himmler's family; Himmler's father was the director of the school which was attended by Gebhardt. (Gebhardt, R. 3958). Both Himmler and Gebhardt took part in the Nazi Putsch in 1923. (Gebhardt, R. 3959). Gebhardt consulted Himmler concerning the preparation of the Olympic Games in Germany, became a member of the German Committee for these Games (Gebhardt, R. 3961), and was promptly rewarded with the position of an Honorary Leader

of the SS. (Gebhardt, R. 3962). Himmler not only visited Hohenlychen frequently (Gebhardt, R. 3962), his son and his second daughter were born there and remained under Gebhardt's care until the collapse of Germany. (Gebhardt, R. 3963). Himmler informed Gebhardt "about the very personal conflict in his life" (ibid) and Gebhardt took care of certain "personal affairs of Himmler". (Gebhardt, R. 3964). He was Himmler's escort physician when the Germans invaded Austria in 1938, the Sudetenland in the same year. (Gebhardt, R. 3962), and Poland in 1939. (Gebhardt, R. 3963). In 1941 he gave up this position and was replaced by his former assistant, Dr. Stumpfegger (Gebhardt, R. 3962), obviously on Gebhardt's own suggestion. Gebhardt described his position as escort physician to Himmler as a personal one. He reported very often to Himmler and gave him what he calls "the most honest and truthful information" on his own initiative about any special situation (Gebhardt, R. 3980, 3962). As the defendant Genzken testified, Gebhardt was in a special confidential relationship with Himmler. (R. 3778, 3784). The proof shows that Gebhardt played an important part in the systematic experimentation on concentration camp inmates.

Gebhardt admitted that he knew as early as May 1942 that Hitler had approved of experimentation on concentration camp inmates. He learned this in a meeting with Himmler and Grawitz. (R. 4190). The individual experimenters would not have worked on concentration camp inmates without being protected from the top; even Himmler himself sought cover from Hitler. (Gebhardt, R. 4191-2). He knew that through the war years such experimentation developed into a systematic practice. (Gebhardt R. 4139-90).

Gebhardt participated in the systematic increase of these crimes.

These then were the positions of responsibility of the defendant Gebhardt: Chief Physician of the Hohenlychen Hospital, Personal Physician to Himmler, Gruppenfuehrer in the Allgemeine SS and Major General in the Waffen SS, Consulting Surgeon to the Waffen SS, Chief Clinical Officer of the Reichsarzt SS and Police, and Himmler's personal advisor in medical matters. Gebhardt used the foregoing positions, his personal influence and his intimate connection with Himmler in a manner which involved the commission of War Crimes and Crimes against Humanity as set forth in the Indictment.

II. PERSONAL PARTICIPATION IN CRIMINAL EXPERIMENTS

In Paragraph 6 of the Indictment, twelve different types of experiments are particularized. Gebhardt is charged with special responsibility and participation in all of them.

A. SULFANILAMIDE EXPERIMENTS (Indictment, Par. 6 (E)).

Experiments to test the effectiveness of sulfanilamide on infections were conducted in the Ravensbruck Concentration Camp from 20 July 1942 until August 1943. These experiments were performed by the defendants Gebhardt, Fischer, and Oberheuser. (NO-228, Pros. Ex. 206, R. 767).

Gebhardt personally requested Himmler's permission to carry out the sulfanilamide experiments and their execution was his responsibility (Gebhardt, R. 4024-5). He himself carried out the initial operations (Gebhardt, R. 4032).

The experimental subjects consisted of fifteen male concentration camp inmates, who were used during the preliminary experiments in July 1942, and sixty Polish women who were experimented on in five groups of twelve subjects each (Gebhardt, R. 4056).

The purpose of the experiments was stated in a preliminary report by Gebhardt dated 29 August 1942, in which he stated:

"By order of the Reichsfuehrer SS, I started on 20 July 1942 at Ravensbruck Concentration Camp for women (FKL) on a series of clinical experiments with the aim of analyzing the sickness known as gas gangrene, which does not take a uniform course, and to test the efficiency of the known therapeutic medicaments.

"In addition, the simple (banal) infections of injuries which occur as symptoms in the war surgery, had also to be tested; and a new chemo-therapeutic treatment aside of the known surgical measures had to be tried out". (NO-2734, Pros. Ex. 473, R. 5622).

The sulfanilamide experiments, as substantially all of the experiments with which the case is concerned, were directly related to the German war effort. Allied propaganda about the "miracle drug" sulfanilamide was having considerable effect on the confidence of the German soldiers in their medical officers. Heavy casualties had been sustained from gas gangrene on the Russian front in the winter of 1941-42. The theoretical question to be answered by these experiments was whether the wounded should be treated surgically in the front line hospitals or should be treated by field medical officers with sulfanilamide and then sent down the long lines of communication to a base hospital for further treatment. (Gebhardt, R. 4010-14).

The same report cited above states that the defendant Fischer was appointed by Gebhardt as his assistant; Dr. Blumenreuter, a subordinate of the defendant Genzken, made available the surgical instruments and medicines; the defendant Drugowsky put his laboratory and co-workers at the disposal of Gebhardt; and Dr. Lolling, Chief Medical Officer of all concentration camps, assigned Dr. Schiedlausky and the defendant Oberheiser as co-workers.

This preliminary report concerns itself with the early experiments on the 15 male subjects to determine a mode of infection with gangrene. Gebhardt was assisted by the Hygiene Institute of the Waffen SS, which made available the

bacteria and gave advice on the method of bringing about gangrene infection artificially. The experimental technique was described in the report as follows:

"The point was to implant the lymph cultures on the damaged muscle tissue, to isolate the latter from atmospheric and humoral oxygen supply and to subject it to internal tissue pressure. The inoculation procedure was as follows: a longitudinal cut of 10 centimetres over the musculus peroneus longus; after incision into the fascia the muscle was tied up with the forceps in an area the size of a five Mark piece; an anaemic peripheral zone was created by injection of 3 ccm Adrenalin and in the area of the damaged muscle the inoculation material (a gauze strip saturated with bacteria) was imbedded under the fascia, subcutaneous adipose tissue and skin sutured in layers."

In the first series of experiments the subjects were infected with staphylococci, streptococci, para oedema malignum, and bacteria Fraenkel and earth. The resulting infections were not considered serious enough, and a conference was had with the Hygiene Institute of the Waffen SS and the bacteria used in bringing about the infections was changed. Six additional male subjects were then infected, but again the results were not considered serious enough. After further consultation with the collaborators in the Hygiene Institute of the Waffen SS, the infection material was changed by adding wood shavings. During the course of these experiments the subjects were treated with various types of sulphonamides, including catoxyn and marfanilprontalbin, the latter being strongly recommended by the Army Medical Inspectorate. Efforts continued to make the gangrene infection more serious, and the report concluded with the following paragraph:

"We are now investigating the problem as to why the gangrene in the present cases did not fully develop. Therefore the injuring of the tissue and the exclusion of a muscle from the circulation of the blood were undertaken during a separate operating session, and the large-scale necrosis resulting therefrom was to be inoculated with bacteria strain which had already had one human passage. For it is only when the really definite clinical picture of the gangrene has appeared that conclusions may be drawn on therapy with chemo-therapeutics in connection with surgical operations." (Emphasis added).

This report was certified as a correct copy by the defendant Poppendick.

In his zealousness to protect his fellow defendants, Gebhardt testified that neither the Hygiene Institute of the Waffen SS nor the defendant Mrugowsky played any part in these experiments, and that the infection material was sent to him by Grawitz. (R. 4179). This is clearly contradicted by his own report cited above.

Following the conclusion of the preliminary experiments on the male prisoners, experiments were continued on female Polish inmates. The affidavit of the defendant Fischer states that three series of operations were performed, each involving ten persons, one using the bacterial culture and fragments of wood, the second using bacterial culture and fragments of glass, and the third using culture plus glass and wood (NO-228, Pros. Ex. 206, R. 767). These experiments were undertaken during the month of August 1942. While Fischer speaks of experimental groups of ten persons each, the defendant Gebhardt testified that the groups were composed of twelve experimental subjects (R. 4056). On 3 September 1942, after 36 women had been experimented on, Reichsarzt SS Grawitz visited Ravensbruck and inspected the experimental subjects. He asked Gebhardt how many deaths had occurred, and when it was reported that there had been none, he stated that the experiments did not conform to battlefield conditions

(NO-228, supra; Gebhardt, R. 4057). In order to make the gangrene infections still more severe, a new series of experiments involving 24 Polish female inmates was carried out. In this series the circulation of blood through the muscles was interrupted in the area of infection by tying off the muscles on either end. This series of experiments resulted in very serious infections and a number of deaths occurred. (NO-228, supra.)

Gebhardt, Fischer, and Oberheuser all admit that three of the experimental subjects died as a result of the experiments. (NO-228, supra; Gebhardt, R. 4059; Oberheuser, R. 5492). Other evidence, however, proves that five died as a direct result of the experiments and six were executed by shooting at a later date. (Magzka, R. 1438, 1449; Broel-Plater, R. 797; Dzido, R. 845; Kuznierczuk, R. 863).

Four of the Polish women who were subjected to these experiments testified before the Tribunal. Most of the women who were used as subjects had been active in a resistance movement. (BP., R. 787; Kar., R. 816; Dz., R. 840; Kuz., R. 857). Only healthy inmates were used. (BP., R. 786; Kar., R. 815; Dz., R. 836; Kuz., R. 856, 860-1). None of them volunteered for the experiments. (BP., R. 789; Kar., R. 819; Dz., R. 842, 844-5; Kuz., R. 861). On the contrary, they protested against the experiments both orally and in writing. (BP., R. 789⁷⁹⁴; Kar., R. 823-5). They stated that they would have preferred death to continued experiments, since they were convinced that they were to die in any event. (BP., R. 795; Kar., R. 824; Kuz., R. 863). They testified that 74 Polish women, one German, and one Ukrainian were experimented upon. (Magzka, R. 1438; BP., R. 796; Kar., R. 818; Kuz., R. 862). Since Gebhardt placed the total number of Polish female experimental subjects in the sulfanilamide experiments at 60, the additional 16

women mentioned by the witnesses may well have been subjects in the bone, muscle, and nerve regeneration experiments. (Magzka, R. 1462).

The witness Kusmierczuk was one of the subjects in the sulfanilamide experiments. She is a Polish national and arrived in the Ravensbruck Concentration Camp in the fall of 1941. (R. 857). She was operated on in October 1942 and a severe infection developed in her case. (R. 858). She remained in the hospital from October 1942 until April 1943, but her wound was still not healed at the time she was discharged from the hospital. Her condition deteriorated and she was re-admitted to the hospital on 1 September 1943. (R. 860). She left the hospital the second time in February 1944, but her wound did not finally heal until June 1944. (R. 861). She identified the defendants Gebhardt, Fischer, and Oberhauser as having participated in the experiment upon her. (R. 860). Kusmierczuk suffered permanent injuries as a result of this experiment, and her condition was described by the expert witness Dr. Leo Alexander. (R. 864-9). The post-operational care of this woman was not handled by Gebhardt and Fischer, but by the Camp Doctors. On the occasion of her second admission to the hospital in September 1943, Kusmierczuk was operated on by Dr. Treite in an effort to cure the deep-seated infection. (Kus., R. 861).

The expert witness Magzka, who worked as an X-ray technician in the Ravensbruck Concentration Camp during the course of the experiments, testified concerning deaths of the five Polish experimental subjects resulting from the sulfanilamide experiments. Weronica Kraska developed typical tetanus symptoms a few days after the experimental operation was performed on her. After a brief illness she died under cramps caused by tetanus. (Magzka, R. 1438).

Kazimiera Kurowska was artificially infected with gangrene bacillus. She was a healthy Polish girl of 23 years. From day to day her leg became blacker and more swollen. She

was given care for only the first few days. After that she was taken to Room No. 4 in the hospital where she lay for days in unbelievable pain and finally died. Magzka was able to observe this case personally and in her opinion immediate amputation would have saved her life. (Magzka, R. 1439-40). It is quite clear that if a German soldier's life had been endangered by gangrene infection, an amputation would have been undertaken immediately. In this experiment, where the very effort was to develop a serious gangrene infection and to test the effects of sulphonamide preparations, it is equally clear why the leg of Kurowska was not amputated. Amilae Lefanowicz was infected with oedema malignum. Her leg kept swelling more and more, the blood vessels eroded, and she died from bleeding. Magzka testified that the blood vessels should have been tied off and an amputation carried out in order to save her life. She was completely neglected after the first two or three days. (Magzka, R. 1440-1). Zofia Kiecol died under similar circumstances. (Magzka, R. 1441).

Alfreda Prus was infected with oedema malignum the same day as the witness Kusmierczuk, Kiecol, and Lefanowicz. She was a beautiful, young 21 year old girl, and a university student. She proved to be stronger than Kiecol and Lefanowicz and for that reason she lived a few days longer. She suffered terrible pain and finally died of haemorrhage. (Magzka, R. 1442-3). Kusmierczuk was the only subject to survive that series of experiments. (Magzka, R. 1443).

It is hardly necessary to point out that all of the experimental subjects suffered severe pain and torture. (BP., R. 790-1, 802; Kar., R. 820; Dz., R. 842; Kus., R. 859; NO-876, Pros. Ex. 225, R. 899; NO-871, Pros. Ex. 227, R. 913; NO-877, Pros. Ex. 228, R. 918). The Tribunal was able to

observe for itself the mutilation to which the Polish witnesses were subjected, and pictures of their scars were introduced to form a permanent part of the record. (NO-1079 a, b, and c, Pros. Ex. 209, R. 798; NO-1081a and b, Pros. Ex. 211, R. 829; NO-1082 a, b, and c; Pros. Ex. 214, R. 846; NO-1080a-g, Pros. Ex. 219, R. 863).

The post-operational care of the experimental subjects was entirely inadequate. (NO-873, Pros. Ex. 226, R. 906). Many of the subjects were given neither medicine nor morphine by order of defendant Oberheuser. (NO-877, Pros. Ex. 228, R. 918). They were given bandages from time to time when the doctors felt like it. Sometimes they waited three days, sometimes four days. There was a terrible odor of pus in the rooms. The girls were forced to help each other. (Magzka, R. 1444). Post-operational care, such as it was, was administered by the camp doctors. The witness Broel-Plater testified that:

"My leg pained me; I felt severe pain, and blood flowed from my leg. At night we were all alone without any care. I heard only the screaming of my fellow prisoners, and I heard also that they asked for water. There was nobody to give us any water or bed pans". (R. 790).

The witness Karolewska testified that:

"I was in my room and I made the remark to fellow prisoners that we were operated on in very bad conditions and left here in this room, and that we were not given even the possibility to recover. This remark must have been heard by a German nurse who was sitting in the corridor because the door of our room leading to the corridor was open. The German nurse entered the room and told us to get up and dress. We answered that we could not follow her order because we had great pains in our legs and could not walk. Then the German nurse came with Dr. Oberheuser into our room. Dr. Oberheuser told us to dress and go to the dressing room. We put on our dresses; and, being unable to walk, we had to hop on one leg going to the operating room. After one hop we had to rest. Dr. Oberheuser did not allow anybody

to help us. When we arrived at the operating room quite exhausted, Dr. Oberheuser appeared and told us to go back because a change of dressing would not take place that day. I could not walk, but somebody, a prisoner whose name I do not remember, helped me to come back to the room." (R. 822).

At least five human lives were sacrificed in the sulfanilamide experiments, while an additional six were shot after having survived the operations. All the surviving victims suffered terrible pains and were crippled for life. Nevertheless, the experiments were not even scientifically successful. The results, as reported by Gebhardt and Fischer at the Third Conference of the Consulting Physicians of the Wehrmacht at the Military Medical Academy in Berlin in May 1943, were not adopted, and medical directives were issued which required the continued use of sulfanilamide. (Gebhardt Ex. 10, R. 4228-9). The sulfanilamide experiments were entirely unnecessary, since similar results could have been achieved by the treatment of wound infections of German soldiers normally contracted during the course of the war. (Rostock, R. 3338, 3334).

Gebhardt does not seriously contend that the experimental subjects were volunteers. He admitted that he did not know whether the women consented. He testified he was not interested in that. He left it up to the "legal authorities". He did not discuss this matter with Himmler. (Gebhardt, R. 4214). By legal authorities, Gebhardt meant Himmler who, as he said, "had the power to execute thousands of people by a stroke of his pen". (R. 4025). Gebhardt, however, showed no interest whatever in the moral or legal character of that power. At one point in his testimony, he stated that the subjects were non-volunteers forced to submit to the experiments by the State. (R. 4064). At still another

point, they were "more or less volunteers, condemned persons" (R. 2021):

Gebhardt's defense, if it can be dignified with that word, is rather that the Polish women had been condemned to death for participation in a resistance movement and that by undergoing the experiments, voluntarily or otherwise, they were to have their death sentences commuted to some lesser degree of punishment whereby they would at least not be executed. This was no bargain reached with the experimental subjects; their wishes were not consulted in the matter. It was, according to Gebhardt, left to the good faith of someone unnamed to see to it the death sentence was not carried out on the survivors of the experiments. Certainly Gebhardt assumed no responsibility, or even interest, in this matter.

The Prosecution points out, in connection with this alleged defense, that the proof shows that the experimental subjects who testified before this Tribunal were never so much as accorded a trial; they had no opportunity to defend themselves against whatever crimes they were said to have committed. They were simply arrested and interrogated by the Gestapo in Poland and sent to a concentration camp. They had never so much as been informed that they had been marked for, not sentenced to, death. (Kar., A. 831). Article 30 of the Regulations Respecting the Laws And Customs of War On Land annexed to the Hague Convention expressly provides that even a spy "shall not be punished without previous trial". The alleged defense of Gebhardt is accordingly without merit.

Gebhardt would have the Tribunal believe that but for the experiments all these Polish girls would be dead; that he preserved the evidence now being used against him.

Nothing could be further from the truth. There is no proof in the record that these women would have been executed if they had not undergone the experiments. The witness Magzka is living proof of the contrary. She was arrested for resistance activities on 11 September 1941, and shipped to Ravensbruck on 13 September. (Magzka, R. 1433). She was not an experimental subject yet she lives today. Substantially all of the Polish experimental subjects arrived in Ravensbruck in September 1941. (B.P., A. 788; Kar., R. 816, Dz., R. 840). These girls had not been executed by August 1942 when the experiments began. Indeed, it was a surprise to Gebhardt, according to his testimony, that they were used at all since during July 1942 the experiments were conducted on men. There were some 700 Polish girls in that transport. (NO-877, Pros. Ex. 228, R. 918; Gebhardt, R. 4216). There is no evidence that a substantial number were ever executed even though most of them were not experimented on.

No, the proof has shown beyond controversy that these Polish women could not have been legally executed. The right to grant pardons in cases of death sentences was exclusively vested in Hitler by a decree of 1 February 1935, RGBL I S74. (NO-3070, Pros. Ex. , R.). On 2 May 1935, Hitler delegated the right to make negative decisions on pardon applications to the Reich Minister of Justice. (NO-3071, Pros. Ex. , R.). On 30 January 1940, RGBL I S399, Hitler delegated to the General Governor for the Occupied Polish Territories the authority to grant pardons and to make denying decisions in pardon matters, for the occupied Polish territories". (NO-3072, Pros. Ex. , R.). By edict dated 8 March 1940, VOBL GG P I S99, the Governor General of occupied

Poland ordered on the execution of the right to pardon in the case of death sentences that:

"The execution of a death sentence pronounced by a regular court, a special court or a police court martial shall take place only when my decision has been issued not to make use of my right to pardon." (NO-3073, Pros. Ex. R.). (Emphasis added).

Assuming arguendo that the experimental subjects had all committed substantial crimes, that they were all properly tried by a duly constituted court of law, that they were legally sentenced to death, it is still clear from the decrees set forth above that these women could not have been legally executed until such time as the Governor General of occupied Poland had decided in each case not to make use of his pardon right. There has been no proof that the Governor General had ever acted with respect to pardoning the Polish women used in the experiments, or, for that matter, any substantial number of those not used in the experiments.

The only reason these 700 Polish women were transported from Warsaw and Lublin to Ravensbruck was because the Governor General had not approved their execution. Otherwise they would have been immediately executed in Poland. At the very least, these women were entitled to remain unmolested so long as the Governor General took no action. He may never have acted or, when he did, he may have acted favorably on the pardon.

The affidavit of Schiedlausky, the camp doctor at Ravensbruck, shows that the Governor General had not turned down a pardon when the experiments started. He said on page four of the original:

"Polish women who had been sentenced to death by court martial and who were awaiting execution, after their sentences had

been approved by the Governor General, were chosen as subjects". (NO-508, Pros. Ex. 223, R. 890).

At still a later point, on page 15 of the original, he said:

"During my tour of duty at Ravensbruck, I estimate that about 25 women were executed by shooting. They were exclusively Polish women, who were already prisoners, whose sentences were only approved after a long time by the Governor General." (Emphasis added).

Schiedlauský was in Ravensbruck from December 1941 until the middle of August 1943. During that long period of time only 25 of over 700 Polish inmates were made eligible for execution by action of the Governor General. Who is to say that the majority of these 700 Polish women did not live through the war even though they did not undergo the experiments? Certainly it was incumbent on the defense to prove the contrary by a preponderance of the evidence. This it did not do by any evidence.

The defendants Gebhardt, Fischer, and Oberheuser cannot claim that they believed in good faith that the Polish women could have been legally executed. Even the camp doctor Schiedlauský knew that the Governor General had to approve the execution. Moreover, the large number of 700 women being sentenced to death at this early stage of the war was enough to put any reasonable person on notice that something was wrong.

Additionally, the uncontradicted evidence proves that survival of the experiments was no guarantee whatever of avoiding execution in any event. At least six of the experimental subjects were executed after having survived the experiments. (Magzka, R. 1449; B.P., R. 797; Dz., R. 845; Kus., R. 863). The names of the Polish girls who were shot were Pajaczkowska, Gans, Zielonka, Rakowska, Sobolewska, and Gutek. (NO-873, Pros. Ex. 226, R. 906; NO-861, Pros. Ex. 232, R. 932). It was

not a question of experimentation or execution but experimentation and execution.

Indeed, in February 1945, an effort was made to execute all of the experimental subjects. They were ordered to report to one block and remain there. They were informed that they would be transferred to the Gross-Rosen Concentration Camp, but it was common knowledge that Gross-Rosen was already in the hands of the Allies. They, therefore, knew that they were going to be executed and so took different identification numbers and hid themselves. This was possible because of disorganization in the camp. (Magzka, R. 1450-1; Kus., R. 862-3; NO-876, Pros. Ex. 225, R. 899; NO-877, Pros. Ex. 228, R. 918).

If one takes the case of the defense at its face value, the Tribunal is in effect asked to rule that it is legal for military doctors of a nation at war to experiment on political prisoners of an occupied country who are condemned to death, to experiment on them in such a way that they may suffer death, excruciating pain, mutilation, and permanent disability - all this without their consent and in direct aid of the military potential of their enemy. There is no valid reason for limiting such a decision to civilian prisoners; the experiment would certainly have been no worse had it been performed on Polish or American prisoners of war. It is impossible to consider seriously the ruling being sought for by the defense.

B. BONE, MUSCLE AND NERVE REGENERATION, and
BONE TRANSPLANTATION EXPERIMENTS (Indictment,
Par. 6 (F)).

These experiments were carried out in the Ravensbruck Concentration Camp during the same period of time and on the same group of Polish inmates as the sulfanilamide experiments. (Magzka, R. 1458).

The defendant Fischer made the following statement about these experiments in his affidavit:

"After the arrival of Doctor Stumpfegger from general headquarters in the fall of 1942, Professor Gebhardt declared before some of his co-workers that he had received orders to continue with the tests at Ravensbruck on a larger scale. In this connection, questions of plastic surgery which would be of interest after the end of the war should be clarified. Doctor Stumpfegger was supposed to test the free transplantation of bones. Since Professor Gebhardt knew that I had worked in preparation for my habilitation at the university on regeneration of tissues, he ordered me to prepare a surgical plan for these operations, which after it had been approved he directed me to carry out immediately. Moreover, Doctor Keller and Doctor Heissmeyer were ordered to perform their own series of experiments. Professor Gebhardt was also considering a plan to form the basis of an operative technique of rehabilitation of joints. Besides the above, Doctors Schulze and Schulze-Hagen participated in this conference.

"Since I knew Ravensbruck I was ordered to introduce the new doctors named above to the camp physician. I was specially directed to assist Doctor Stumpfegger, since he was physician in the staff of Himmler probably would be absent from time to time.

"I had selected the regeneration of muscles for the sole reason because the incision necessary for this purpose was the slightest. The operation was carried out as follows:

"Evipan and ether were used as an anesthetic, and a five centimeter longitudinal incision was made at the outer side of the upper leg. Subsequent to the cutting through the fascian, a piece of the muscle was removed which was the size of the cup of the little finger. The fascian and skin were enclosed in accordance with the normal technique of aseptic surgery. Afterwards a cast was applied. After one week the skin wound was split under the same narcotic conditions, and the part of the muscle around the area cut out was removed. Afterwards the fascian and the sewed-up part of the skin were immobilized in a cast." (NO-228, Pros. Ex. 206, A. 767).

The responsibility of the defendant Gebhardt for these experiments is also proved by the affidavit of Oberheuser. She stated:

"The experiments with bone transplantations were carried out, as far as I can remember, at the end of 1942 and beginning of 1943 by Dr. Stumpfegger of Hohenlychen. I helped and assisted Dr. Stumpfegger in the same way, as I helped Dr. Fischer with the sulfonamide experiments, and as I have described already in paragraph 4 of this affidavit. Before the operation I had to examine, as in the other case, the condition of the health of the selected persons. The operations consisted in the removal and transplantation of a piece of the bone from the tibia. 15 to 20 persons were used for these experiments.

"The persons necessary for these experiments were requisitioned by Dr. Schiedlausky from the camp commander.

"Dr. Karl Gebhardt was in charge of the sulfonamide experiments and bone transplantations. It is not known to me, that he himself has performed operations of this type. But I know, that all these experiments were performed under his direction and supervision and upon his instructions. He was assisted by the already mentioned Dr. Fischer and Dr. Stumpfegger and also by Dr. Schiedlausky and Rosenthal. Also for these experiments, only healthy Polish prisoners were used.

"I can't remember, that a single one of the used experimental subjects was pardoned after the completion of the experiments." (NO-487, Pros. Ex. 208, K. 780).

The witness Magzka, a graduate of the Medical School of the University of Cracow and a practising physician, testified that in the course of her duties as X-ray technician in the Ravensbruck Concentration Camp she had occasion to observe approximately 13 cases of inmates whose bones had been experimentally operated on. There were three kinds of bone operations - fractures, bone transplantations, and bone splints. The Polish girls were operated on several times each in some cases. In the case of Crystyna Dabska, Magzka took X-ray pictures of both legs and discovered that small pieces of the fibulae had been removed. In the case of one leg the periosteum had also been taken out. Zofie Baj was operated on in a similar manner. Janina Merczewska and Leonarda Bien were subjected to the bone

fracture experiments. The tibia was broken in several places and in the case of one of the girls, clamps were applied while in the case of the other they were not. These operations impeded the locomotion of the girls operated on. Bone incision operations were performed on Barbara Pietczyk, a Polish girl 16 years old. She was operated on six times. During the first operation incisions were made in each tibia. During a later operation pieces of the tibia were cut out where incisions had been previously made. Magzka took an X-ray of the pieces of tibia that were removed. As a result of these bone operations, Magzka observed the development of two cases of osteomyelitis, Maria Grabowska and Maria Gabaj. (Magzka, R. 1445-7).

A rather large group of muscle experiments were performed. Here again multiple operations were carried out on the same subject. Gledziejowska was operated on most frequently. During the first operation certain muscles were removed and during subsequent operations additional pieces were cut out, always at the same place, so that the legs got thinner and weaker all the time. (Magzka, R. 1447).

Transplantation of whole limbs from one person to another was also carried out. Magzka testified that about ten feeble-minded inmates were selected, taken to the hospital and prepared for operation. She knew personally that at least two of these persons were operated on. One case was a leg amputation. Following this operation, the experimental subject was killed and placed in a special room where the dead were kept. Magzka was able to observe the corpse and saw that there was only one leg. In the second case an abnormal woman was operated on by Dr. Fischer. When he left the operating room he carried with him a

bundle wrapped up in linen about the size of an arm. He took this away with him. The prison nurse Quernheim informed Magzka that the whole arm with shoulder blade was removed from this woman. (Magzka, R. 1448).

The amputation of the arm and shoulder blade mentioned by Dr. Magzka obviously refers to the transplantation performed on the patient Ladisch at Hohenlychen. As to this, the defendant Fischer stated in his affidavit as follows:

"As a disciple of Lexer, Gebhardt had already planned long ago a free heteroplastic transplantation of bone. In spite of the fact that some of his co-workers did not agree, he was resolved to carry out such an operation on the patient Ladisch, whose shoulder joint was removed because of a sarcoma.

"I and my medical colleagues urged professional and human objections up until the evening before the operation was performed but Gebhardt ordered us to carry out the operations. Doctor Stumpfegger, in whose field of research this operation was, was supposed to perform the removal of the scapula at Ravensbruck, and had already made initial arrangements therefor. However, because Professor Gebhardt required Doctor Stumpfegger to assist him in the actual transplantation of the shoulder to the patient Ladisch, I was ordered to go to Ravensbruck and perform the operation of removal on that evening. I ask Doctor Gebhardt and Schulze to describe exactly the technique which they wished me to follow. The next morning I drove to Ravensbruck after I have made a previous appointment by telephone. At Hohenlychen I had already made the normal initial preparation for an operation, namely, scrubbing, etc., merely put on my coat, and went to Ravensbruck and removed the bone.

"The camp physician who was assisting me in the operation continued with it while I returned to Hohenlychen as quickly as possible with the bone which was to be transplanted. In this manner the period between removal and transplantation was shortened. At Hohenlychen the bone was handed over to Professor Gebhardt, and he transplanted it, together with Doctor Schulze and Doctor Stumpfegger". (NO-228, Pros. Ex. 206, R. 767).

Gebhardt admitted that he, together with Stumpfegger, personally performed the bone transplantation operation on Ladisch. He testified further that Fischer only removed the scapula, shoulder blade, from the Polish female inmate at Ravensbruck. (R.4235). It is impossible to raise the arm above the horizontal if the scapula has been removed. (Gebhardt, R. 4235). Gebhardt further admitted that Stumpfegger reported to him on the bone experiments in Ravensbruck Concentration Camp. (R.4235).

The affidavit of Gustawa Winkowska corroborates the testimony of Magzka concerning the transplantation of whole limbs and establishes that the experimental subjects were later killed. (NO-865, Pros. Ex. 231, R. 930).

The witness Karolewska was a subject in both the sulfanilamide and bone experiments. (Alexander R. 833, 836-7). She was operated on a total of six times. The first operation was conducted on 14 August 1942 by Fischer. (R.819). Gebhardt inspected her early in September. (R.821). She was sent back to her block on 8 September 1942, but was unable to walk and remained in bed for a week. On 16 September 1942 she was again taken to the hospital and operated on for the second time by Fischer. (R.821-2). She left the hospital on 6 October 1942 and remained in bed for several weeks. Her leg did not heal until June 1943 (R.822-3). She filed a written protest with the Camp Commander, together with other experimental inmates, in February 1943. In August 1943 she was operated on literally by force in the bunker at Ravensbruck. Both her legs were cut open. These operations were carried out on five other Polish girls under indescribably filthy conditions. (R.827). On 15 September 1943 a further operation was

performed on her right leg by a doctor from Hohenlychen. Two weeks later her left leg was operated on and pieces of the shinbone were removed. She stayed in the hospital for six months - until the end of February 1944. (R.828-9). Karolewska identified the defendants Gebhardt, Fischer and Oberheuser as having participated in the experiments on her. (R.818,830).

The defendant Fischer participated in these experiments until at least 23 February 1943. On that date he carried out a second operation on Zofia Baj. (NO-871, Pros. Ex. 227, R.913).

The most disgusting series of operations were those carried out in August 1943 in the bunker. The Polish girls selected had revolted and refused to report to the hospital. The barrack block in which they had barricaded themselves was then surrounded by male guards who carried these women off forcibly to the camp prison, known as the Bunker, where they were held down by these male guards and forcibly anaesthetized without any pre-operative care, and with their bodies still in a filthy condition from walking around the camp. The experimental subject Piasecka stated in her affidavit as follows:

"I resisted and hit Trommer in the face and called him a bandit. He called some SS male guards who threw me on the floor and held me down while ether was poured over my face. There was no mask. I fought and resisted until I lost consciousness. I was completely dressed and my legs were filthy dirty from walking in the camp. As far as I know my legs were not washed. I saw my sister during this time unconscious on a stretcher, vomiting mucous." (NO-864, Pros. Ex. 229, R.923).

Piasecka stated that this operation was carried out by Dr. Villmann who was an assistant doctor at Hohenlychen. A few weeks later two other assistant doctors to Gebhardt

came and operated on her right leg. (NO.864, supra).

In his testimony Gebhardt attempted to disassociate himself from these experiments. He admitted however that he received information from Stumpfegger about the experiments (R.4082, 4087-9). Stumpfegger was a former assistant of Gebhardt's and he stayed at Hohenlychen during the course of these experiments. Fischer assisted Stumpfegger and Gebhardt. (Gebhardt R.4230, 4090). It is further established by Fischer's own affidavit that the plan for the experiments was worked out with the knowledge and approval of Gebhardt.

C. Other Experiments

The proof shows that Gebhardt played an important role in other criminal experiments on concentration camp inmates.

(1) High Altitude and Freezing Experiments (Indictment, Par. 6 (A) and (B)).

The criminal nature of the high altitude experiments is set forth in the Prosecution's brief on Ruff, Romberg, and Weltz, while the freezing experiments are described in the brief on Sievers.

Gebhardt was informed of the details of the high altitude and freezing experiments and, indeed, offered his assistance to Rascher. On 11 November 1942 the defendant Rudolf Brandt advised Gebhardt that Rascher would soon be transferred from the Luftwaffe to the Waffen-SS and, according to instructions from Himmler, Rascher was to report to Gebhardt concerning his experiments. The letter further stated that Rascher had conducted high altitude and freezing experiments in Dachau and that further experiments were to be conducted with respect to freezing. (NO-314, Pros. Ex. 98, R.330).

It is important to note that Rascher was instructed

to report to Gebhardt who at that time was himself carrying out the sulfanilamide experiments in Ravensbruck. It is quite apparent that Gebhardt occupied a very responsible and confidential position with Himmler in regard to human experimentation.

On 16 April 1943, in a letter to Rascher, Rudolf Brandt acknowledged receipt of a report on dry freezing experiments and advised Rascher to report to Gebhardt who had already received a copy of his paper in the freezing experiments. (NO-241, Pros. Ex. 113, R.355). A copy of the report itself is not available, but it is known from Rascher's letter of 4 April 1943 that it concerned the dry freezing experiments which he was able to perform due to a period of exceptionally cold weather in Dachau. This letter stated that "certain people" were in the open air for 14 hours at minus 6 degrees Centigrade and that their internal temperatures dropped to 25 degrees Centigrade with resulting freezing of the extremities. (NO-292, Pros. Ex. 111, R.354).

On 14 May 1943 Rascher personally reported to Gebhardt at Hohenlychen about his experiments at Dachau. Gebhardt told Rascher to task for having submitted the results of his experiments to Himmler directly and stated that it was his task "to merge all the groups of physicians working independently within the SS, since that would suit the Reichsfuehrer much better than individual people working on their own". Gebhardt encouraged Rascher to obtain university training and told him that future reports "would have to be transmitted through him to the Reichsfuehrer". Gebhardt requested Rascher to submit to him data concerning his personal and scientific career. When Gebhardt objected to the scientific character of some of Rascher's experiments, Rascher

replied that "all of the physiological-chemical experiments which could be carried out in Dachau had indeed been conducted". (NO-231, Pros. Ex. 116, R.360). From this conversation Rascher obtained the impression that he actually was working for Gebhardt and that his approval for further experiments had to be obtained.

Rascher - impressed by Gebhardt's advice to enter upon a university career - decided to apply for admission as an academic lecturer and chose the high altitude and freezing experiments as the theme for his treatise. The history of his medical work which he wrote for this purpose was transcribed on the same day that he reported to Sievers on his conversation with Gebhardt. (NO-230, Pros. Ex. 115, R.356).

On 11 June 1943 Gebhardt wrote to Rudolf Brandt stating that he had seen Rascher and that they had "quickly come to an agreement". The letter continued:

"He (Rascher) himself emphasizes that the results are still incomplete as yet and need further corroboration. This, however, is only possible if the necessary apparatus for this type of work is available. Rascher has explained that in his letter, I beg you now to examine, if the necessary steps are to be taken by you through the 'Ahnenerbe' or by myself in order to have the needed apparatus issued to Rascher. Only if these prerequisites exist, can valuable scientific work be accomplished". (NO-233, Pros. Ex. 459, R.4237).

(2) Polygal Experiments

Gebhardt also cooperated with Rascher on the Polygal experiments. Polygal was the name given to a blood coagulant developed by Rascher in Dachau. In order to test the effectiveness of this coagulant he carried out experiments in which concentration camp inmates were shot. (NO-438, Pros. Ex. 240, R.956; NO-1424, Pros. Ex. 462, R.4773; Stoehr, R.587). Gebhardt was consulted by Himmler about Rascher's research with Polygal and Gebhardt convinced him that future experiments would be necessary under his supervision. (NO-612,

Pros. Ex. 241, R.961). Gebhardt admitted during his testimony that he knew that Rascher had carried out blood coagulation experiments on concentration camp inmates who had been shot for that purpose. (Gebhardt, R.4240-1).

(3) Sepsis (Phlegmone) Experiments.

Sepsis experiments were performed in the Dachau Concentration Camp beginning in the autumn of 1942. These experiments were carried out in order to test the effectiveness of bio-chemical treatment of sepsis and related diseases.

The witness Stoehr testified concerning these experiments. He stated that sepsis was artificially provoked by infecting the concentration camp inmates who were used as subjects with pus. (R.578-9). He knew of at least two series of experiments. In each of these series approximately half of the experimental inmates were treated by bio-chemical means and the other half with sulfonamide. The first series consisted of 20 German concentration camp inmates of whom seven died as a result. For the second series, 40 clergymen of various nationalities were selected and 12 died as a result of the experiments. (Stoehr, R.581-2). The experimental subjects did not volunteer. (Stoehr, R. 590). See also the Review of Proceedings of the General Military Court in U.S. v. Weiss, et al. (NO-856, Pros. Ex.125, R.386).

It is quite clear that the bio-chemical experiments performed in Dachau were complementary to the sulfanilamide experiments by Gebhardt in Ravensbruck. This is shown by the fact that in September 1942, while the sulfanilamide experiments were still in progress, Gebhardt received a copy of a report on the bio-chemical experiments in Dachau from Grawitz. (NO-409, Pros. Ex.249, R.979). This report shows on its face that approximately eight cases of sepsis were artificially provoked. The report dealt with the results obtained from experiments carried out on 40 concentration

camp inmates in treating sepsis, phlegmone, furnucles, abscesses, and nephrosis, among others. Ten of the experimental subjects died. The report also covered three sepsis cases in Auschwitz, all of them died. It concluded with the statement that the experiments were being continued.

The case history of one of the experimental subjects artificially infected with pus in November 1942 shows the horrible pain which these victims suffered. (NO-994, Pros. Ex. 251, R.985).

That the defendants Gebhardt and Fischer had more than a casual connection with the sepsis experiments in Dachau is proved by a handwritten notation by Gebhardt on a letter written by Grawitz to Himmler on 7 September 1942, attaching copies of the preliminary report by Gebhardt on his sulfanilamide experiments, together with the report on the sepsis experiments in Dachau. (NO-2734, Pros. Ex. 473, R.5622).

This note reads as follows:

"16 September 1942.
Settled, after conversation
with RF-SS. Obersturmfuehrer
F. Fischer has been given new
instructions for Ravensbruck
and Dachau. Gebhardt".
(Emphasis supplied)

(4) Sterilization experiments (Indictment, Par. 6 (I)).

Gebhardt also participated in the criminal sterilization experiments carried out on Jewish concentration camp inmates. By 1941 it was the accepted policy of the Third Reich to exterminate the Jewish population of Germany and the occupied countries (IMT Judgment, R.16902 et. seq.).

On 30 May 1942, Dr. Clauberg wrote to Himmler asking his support of sterilization experiments on female concentration camp inmates (NO-211, Pros.Ex. 169, R.564). This letter bears a handwritten notation reading, "Wednesday, 8 July". On 7 and 8 July a conference took place between Himmler, Gebhardt, Gluecks, and Clauberg. The topic of discussion was the sterilization of Jewesses. Clauberg was promised

that the Auschwitz Concentration Camp would be put at his disposal for experiments on human beings and animals. He was requested to discover by means of fundamental experiments a method of sterilizing persons without their knowledge. It was requested that a report on this matter be submitted as soon as possible so that measures could be taken "for the practicable realization of the sterilization on a larger scale". It was also suggested that Hohlfelder be consulted on the sterilization of men by X-rays. The participants in the conference were admonished that these experiments were a matter of utmost secrecy. The file memoranda on these conferences were signed by the defendant Rudolf Brandt. (NO-216, Pros. Ex. 170, R.565; NO-215, Pros. Ex. 172, R.568). In answer to this proof the defendant Gebhardt could only deny that he was present at such meetings.

On 10 July 1942 Clauberg was ordered to report to Himmler on how long it would take to sterilize one thousand Jewesses by his method. In this letter it was suggested that the experiments be carried out in the Ravensbruck Concentration Camp, where Gebhardt was just beginning his sulfanilamide experiments. (NO-213, Pros. Ex. 171, R.567). On 7 June 1943 Clauberg was able to report on the basis of his experiments that it would be possible to sterilize several hundred, if not even a thousand, per day by his method. He stated that sterilization could be "performed by a single injection made from the entrance of the uterus in the course of the usual customary gynaecologic examination....." (NO-212, Pros. Ex. 173, R.570). The sterilization experiments of Clauberg were in fact carried out in the Auschwitz Concentration Camp as shown by his letter of 6 August 1942 to the defendant Rudolf Brandt in which he requests a second X-ray installation for his experimental work in Auschwitz. (NO-210, Pros. Ex. 174, R. 572).

Sterilization experiments on male concentration camp inmates were also carried out in the Auschwitz Concentration Camp by means of X-ray and surgical castration on a large scale. (Levy, R.556-9). Sterilization by means of drugs was also attempted. (NO-036, Pros. Ex. 143, R.512).

(5) Seawater Experiments.

Gebhardt's position with respect to medical experiments on concentration camp inmates became so important that on 15 May 1944 Himmler required an opinion from Gebhardt before any experiments could be carried out on inmates. This order of Himmler's stated that all medical experiments to be carried out in concentration camps had to have his personal approval. All offices within the SS which deemed it necessary to carry out medical experiments in the concentration camps were required to submit an application to Grawitz, the Reichsarzt SS and Police. This application had to state the problem involved, the effect of the experiments to be carried out, the number of prisoners required, and the approximate duration of the experiment. Grawitz was required to submit such application to Himmler after having secured the critical opinion of the Chief Clinical Officer of the SS (Gebhardt) concerning the technical aspects and the opinion of Nebe and Gluecks. (NO-919, Pros. Ex. 460, R.4244). Nebe was the head of the criminal police in the RSHA while Gluecks was in charge of all concentration camps under Oswald Pohl in the Economic and Administrative Main Office of the SS.

It goes without saying that the defendant Gebhardt was informed of and gave his approval to all experiments on concentration camp inmates carried out after 15 May 1944. It is apparent that he was also fully advised as to experiments which were then in progress as otherwise he would be in no position to make an enlightened judgment on the necessity for new experiments.

The seawater experiments were the subject of a conference of Luftwaffe medical officers on 23 May 1944. It was decided at this conference that experiments to test the potability of seawater processed by a new method were necessary. Since it was anticipated that deaths would occur during the course of the experiments it was resolved to request the experimental subjects from Himmler. A report on this conference was sent to Himmler and a handwritten notation at the end of the report shows that it was passed on to Gebhardt. This notation by Gebhardt states that "Asocial gypsies" should be provided by the RSHA (Reich Security Main Office). (NO-177, Pros. Ex. 133, R.483).

On 28 June 1944 Grawitz, in accordance with the order of Himmler of 15 May 1944, wrote to Himmler giving him the comments of Gebhardt, Gluecks, and Nebe on the proposed seawater experiments. Gebhardt's comment was, "I deem it absolutely right to support the Luftwaffe in every way and to place a general physician of the Waffen-SS at his disposal to supervise the experiments". Nebe sponsored Gebhardt's suggestion to use gypsies in the experiments, to which Grawitz objected on the ground that they were of somewhat difference racial composition than Germans. Himmler approved the proposed experiments on gypsies with three others for control. (NO-179, Pros. Ex. 135, R.485).

For a description of the criminality of these experiments reference may be made to the Prosecution's brief on Schroeder.

(6) Gas Experiments (Indictment, Par. 6 (D)).

The Lost gas experiments carried out by Hirt on inmates of the Natzweiler Concentration Camp continued from November 1942 until autumn 1944. (Holl, R.1051 et seq.). Sievers had full knowledge of the experiments by Hirt (NO-015, Pros. Ex. 275, R.1039), and he received a copy of Himmler's

order of 15 May 1944 requiring Gebhardt's permission for experiments after that date. Any new requests for prisoners by Hirt necessarily had to come to Gebhardt's attention. For a description of the criminality of these experiments, reference may be made to the Prosecution's brief on Sievers.

On 22 November 1944 Grawitz wrote to Himmler suggesting experiments on inmates to test the effect of a gas known as "N substance" on and through the human skin. In accordance with the order of 15 May 1944 Gebhardt approved the experiments in the following words:

"I am certainly in agreement with the suggestion and request that the directions for the supervision of the carrying out be issued directly by the Reichsarzt SS and Police".
(NO-005, Pros. Ex. 279, R.1043).

(7) Epidemic Jaundice (Indictment, Par. 6 (H)).

On 29 January 1945 Mrugowsky wrote to Grawitz requesting approval for epidemic jaundice experiments on 20 suitable prisoners at the typhus experimental station in Buchenwald. He stated that it was necessary to make experiments on human beings in order to determine whether a virus cultivated by SS Dr. Dresel was the effective virus in hepatitis epidemica. Generalarzt Schreiber was supporting this research. (NO-1303, Pros. Ex. 467, R. 5400).

The Himmler order of 15 May 1944 required that this request for jaundice experiments be approved by the defendant Gebhardt.

(8) Poison Experiments (Indictment, Par. 6 (K)).

A description of the criminality of the poison experiments is set forth in the Prosecution's brief on Mrugowsky.

On 11 September 1944 Mrugowsky and Ding carried out an experiment with aconitin nitrate projectiles on five inmates of the Sachsenhausen Concentration Camp. The subjects

were shot in the upper part of the thigh with projectiles which were filled with crystallized poison. Three of the experimental subjects died after suffering horrible agony for two hours. (NO-201, Pros. Ex. 290, R. 1303; Kogon, R. 1186). Additional poison experiments were carried out in October 1944 on six Russian prisoners of war in the Buchenwald Concentration Camp. All the experimental subjects were killed. (Kogon, R. 1184-6; NO-265, Pros. Ex. 287, R. 1317, entry for 26 October 1944).

Both of these experiments occurred after the order of 15 May 1944 and Gebhardt's approval was necessarily required.

(9) Miscellaneous.

The malaria experiments in Dachau and the typhus experiments in Buchenwald and Natzweiler were continued well beyond May 1944. Renewed requests for inmates used in these experiments after that date were subject to Gebhardt's approval pursuant to the order of 15 May 1944. Moreover, Grawitz and persons subordinated to him were closely connected with these experiments as well as the incendiary bomb experiments in Buchenwald in November 1943 and Gebhardt, as one of the chief functionaries in Grawitz' office, must have been informed of these experiments. Even assuming that Gebhardt was not familiar with the details of these experiments, the proof has been established beyond doubt that he was connected with plans and enterprises involving the systematic experimentation on involuntary human subjects and he is therefore responsible for these experiments under the terms of Paragraph 2 of Article Two of Control Council Law No. 10.

III. Conclusion.

Gebhardt personally initiated and assumed full responsibility for the sulfanilamide experiments. He performed some of the operations and artificial infections of the Polish women used as subjects. Five of the subjects died as a direct result of the experiments. His contention that the Polish victims, who are claimed to have been condemned to death, were saved by undergoing the experiments is no defense. These women were not afforded a trial. They did not consent to the experiments. They protested orally, physically, and in writing. There is no evidence that the Governor General of occupied Poland ever acted on their pardon applications as required by German law. Moreover, six of the experimental subjects were executed after having survived the experiments.

The bone, muscle, and nerve regeneration, and bone transplantation experiments were conducted in the same place, during the same period of time, and on the same group of victims as the sulfanilamide experiments. Without the latter, the former would never have taken place. The surgical plan for these experiments was drawn up by Fischer, in cooperation with Stumpfegger, on orders of Gebhardt. Fischer, who was directly subordinated to Gebhardt, actively participated in the experiments. Stumpfegger was stationed in Hohenlychen during these experiments and he reported on them to Gebhardt. Gebhardt personally performed a bone transplantation experiment on the patient Ladisch. The concentration camp inmate from whom the bone was removed was later killed.

Gebhardt was acquainted with the details of the experiments participated in by Rascher in Dachau, including

the high altitude, freezing, and blood coagulation experiments. He discussed these experiments with Rascher personally and offered material support. Polygal, a blood coagulant tested by shooting inmates, was studied by Gebhardt in Hohenlychen:

Gebhardt had knowledge and issued instructions to Fischer respecting the murderous sepsis experiments in Dachau. They were supplementary to the sulfanilamide experiments in Ravensbruck.

He participated in conferences concerning sterilization experiments on Jewish female inmates of Auschwitz.

After 15 May 1944 all experiments on concentration camp inmates had to be approved by Gebhardt. He sanctioned the seawater experiments in Dachau and urged the use of "asocial Gypsies". He approved experiments on inmates with gas. His approval was required with respect to poison experiments which were conducted after May 1944, as well as proposed epidemic jaundice experiments.

The Prosecution submits that the evidence proves that Gebhardt was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experimentation on human subjects without their consent, in the course of which experiments murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts were committed, and that his guilt has been established under Counts I, II, III, and IV of the Indictment.

M I L I T A R Y T R I B U N A L N O. I

CASE NO. 1

CLOSING BRIEF FOR
THE UNITED STATES OF AMERICA
AGAINST
KARL GENZKEN

Nurnberg,
16 June 1947.

James M. McHaney
Alexander G. Hardy
Arnost Horlick-Hochwald
Esther Jane Johnson

For:

Telford Taylor
Brigadier General, U.S.A.,
Chief of Counsel for War Crime.



INTRODUCTION

It is alleged under Count One of the Indictment that the defendant, Genzken, conspired and agreed with others, pursuant to a common design to perform medical experiments on involuntary human subjects; under Counts Two, and Three (War Crimes and Crimes against Humanity, respectively), that he was a principle in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experimentation on involuntary human subjects; and under Count Four, that he was a member, after 1 September 1939, of the SS, an organization declared to be criminal by the International Military Tribunal.

The defendant Genzken is particularly charged with having participated in the typhus experiments, set forth in Paragraph 6 (J) of the Indictment, and the sulfanilamide experiments set forth in Paragraph 6 (E). The Prosecution, in order to simplify the issues, has heretofore withdrawn the charge of having participated in the poison and incendiary bomb experiments set forth in Paragraphs 6 (K) and 6 (L), respectively. In addition, the Prosecution herewith withdraws the charge of having participated in the sea water experiments as set forth in Paragraph 6 (G) of the Indictment. Thus, the charge against Genzken of having participated in criminal medical experiments rests upon his connection with the typhus experiments in Buchenwald, together with other vaccine experiments and the withdrawal of blood for typhus convalescence serum and blood plasma, with the sulfanilamide experiments, and with the freezing and other experiments conducted by Dr. Rascher and the sterilization experiments by Dr. Gleuber.

I. Positions of Responsibility

The defendant Genzken as Chief of the Medical Service of the Waffen-SS was, together with Reicharzt SS Grawitz, the highest ranking medical officer in the SS.

Genzken served as a medical officer during the first World War. He entered the medical service of the German Navy in August 1912 and served as an officer until November 1919. He was in the private practice of medicine until October 1934 when he again was commissioned as a Reserve Officer in the Navy. He joined the Nazi Party in 1926.

On March 1, 1936 he transferred to the SS with the rank of Sturmbannfuhrer (Major) and was assigned to the medical office of the SS Special Service Troops (SS-Verfuehrungstruppe), subsequently to become the Waffen-SS. He was also appointed Chief Physician of the SS Hospital in Berlin and directed the Medical Service School (Sanitaets-Schule) attached thereto.

In the spring of 1937, the Medical Office (Sanitaetsamt) of the SS was enlarged and split into two departments. Genzken was made director of the department charged with the supply of medical equipment and the supervision of medical personnel in the concentration camps. In this capacity he was the medical advisor to Eicke, the commander of all concentration camps. The concentration camps of Sachsenhausen, Dachau, Buchenwald, Mauthausen, Flossen-berg and Nuenen, which were the principal camps then in existence, were under his medical jurisdiction. It was his duty to inspect these camps. (Genzken, R. 3843). He acted in that capacity until September 1939.

After having activated the 3rd Medical Battalion of the 3rd Panzer Grenadier Division, Genzken was appointed

Chief of the Medical Office of the Waffen SS, which was Office VII in the SS Operational Headquarters (SS Fuehrungshauptamt), with the rank of Oberfuehrer (Senior Colonel). The SS Operational Headquarters was subordinated to Obergruppenfuehrer Hans Juettner and was one of the twelve main offices of the Supreme Command of the SS. (NO-416, Pres. Ex. 22, R. 121). While Juettner was Genzken's military superior, his technical or medical superior was Reichsarzt SS Grawitz for whom he served as deputy on many occasions. (NO-439, Pres. Ex. 24, R. 122). He retained this position until the end of the war, but in 1942 his position became known as the Chief of the Medical Service of the Waffen SS, Division D of the SS Operational Headquarters. He was promoted to the rank of Brigadefuehrer and finally on January 30, 1943, to the rank of Gruppenfuehrer and Generalleutnant of the Waffen SS.

As Chief of the Medical Service of the Waffen SS, Genzken was responsible for the training, activation, and performance of medical units of the Waffen SS. When such units were committed to the front, tactical control passed to the defendant Handloser as Army Medical Inspector.

The facts set forth above are proved by the affidavit of Genzken (NO-439, supra), and his testimony. (R. 3774-78).

Four offices were subordinated to Genzken in the SS Operational Headquarters, -- Office XIII, Medical Service for Troops, Office XIV, Dental Service, Office XV, Chemical and Pharmaceutical Service under Blumenreuter, and Office XVI, Hygiene under the defendant Mrucowsky. (NO-416, Pres. Ex. 22, R. 121; Genzken, R. 3845-6). Mrucowsky was attached to Genzken's office as a hygienist in 1940 and was at the same time Chief of the Hygiene Institute of the Waffen SS which, in turn, was subordinated to Genzken. (Genzen, R. 3778, 3846; NO-416, supra). This subordination continued

until 31 August 1943.

On 1 September 1943, the medical service of the SS was reorganized. This involved, among other things, the transfer of Blumenreuter, Mrugowsky and the Hygiene Institute of the Waffen SS to the Office of the Reichsarzt SS and Police, Prof. Dr. Ernst Grawitz. Thereafter the direct subordination was to Grawitz rather than Genzken. (NO-417, Pros. Ex. 23, R. 121; NO-416, supra; NO-723, Pros. Ex. 29, R. 131).

II. Personal Participation In Criminal Experimentation

A. Typhus and Other Vaccine Experiments (Indictment, Para. 6 (J))

(1) Typhus experiments in Buchenwald

The typhus experiments at Buchenwald were carried out by officers under the command of Genzken. The criminal character of these experiments is described in the Prosecution's brief on Mrugowsky. The experiments were performed with his knowledge and approval. He is therefore responsible for the manifold murders resulting from these experiments. Application of Yamashita, 66 S. Ct. 340, 346 (1946).

Dr. Ding-Schuler, a medical officer of the Waffen SS, was directly in charge of the typhus experiments in Buchenwald subject to the orders and supervision of the defendant Mrugowsky. Prior to 1939, Ding had been the camp physician in Buchenwald, (Kron, R. 1154), and was thus subordinated to Genzken. During the French campaign, Ding served as adjutant to Genzken and they became personal friends. (Genzken, R. 3811). In January, 1942, Ding began the typhus experiments in Buchenwald. He was attached to the Hygiene Institute of the Waffen SS and the experimental and vaccine production blocks in Buchenwald became known as the Department for Typhus and Virus of the Hygiene Institute. This is clearly shown on the chart drawn by the defendant Mrugowsky. (NO-416, Pros. Ex. 22, R. 121).

Genzken admits that Mrugowsky and the Hygiene Institute of the Waffen SS were subordinated to him prior to 31 August 1943 and that they were subject to his orders. (R. 3847). He further admits that Ding was his subordinate up until he began the criminal experiments in Buchenwald. Thereafter, he maintains, Ding was subordinated to the dead Grawitz. (R. 3847). Assuming for the moment the truth of this self-serving testimony, Genzken went on to state: "From that time on my agency only had to take care of his expenses because he had been attached to another agency and then when no budget existed for the new place to which he was attached we had to take care of his expenses and that applied in this case." (R. 3847) (Emphasis supplied). Thus, by the defendant's own admission, his office supplied the funds necessary for the typhus experiments. Again assuming that Ding was attached to Grawitz, this could not have been done without the knowledge and approval of Genzken, his commanding officer. He had to consent to the use of Ding for the Buchenwald experiments.

The proof shows, however, that Ding and Mrugowsky were continually subordinated to Genzken until 31 August 1943. The question is not whether Grawitz was the superior of Ding or Mrugowsky, but rather whether Genzken was in the chain of command between Ding and Grawitz. As already pointed out, Genzken himself stated that Grawitz was his medical superior. The substantial participation of Grawitz in these experiments in no sense exculpates Genzken. The evidence establishes that Genzken was in the chain of command and that Ding and Mrugowsky were directly subordinated to him. The defendant Mrugowsky stated in paragraphs 4 and 5 of his affidavit as follows:

"Genzken was my immediate superior from

1940 until September 1, 1943. At that time a re-organization of the SS Medical Service was carried out and I was placed directly under Dr. Grawitz, then Reich Physician SS and Police. In the beginning of 1942, Dr. Genzken ordered the foundation of the Department for Spotted Fever and Virus Research at the Hygiene Institute of the Waffen SS in the Buchenwald Concentration Camp and appointed Dr. Ding as Chief of this department. As I was at that time Chief of Amt XVI 'Hygiene' in the SS Operational Main Office, I was the immediate superior of Dr. Ding. The name of his department was chosen in order to make clear the similar purposes of this Institute for the Waffen SS and of the Institute for Spotted Fever and Virus Research of the OKH (Supreme Army Command) in Gracow under Major Dr. Eyer.

"Dr. Genzken knew, as a matter of course, that the Institute was founded for the purpose of providing the Waffen SS with an efficient vaccine against spotted fever. In the Department for Spotted Fever and Virus Research at Buchenwald, medical experiments on inmates of the Buchenwald Concentration Camp were carried out by Dr. Ding in order to determine the effect of various Spotted Fever Vaccines." (NO-423, Pros. Ex. 282, R. 1085).

Paragraphs 4 and 5 of the affidavit of the defendant Heven, who worked on these experiments with Ding, reads as follows:

"In the later part of 1941 an experimental station was established in the Buchenwald Concentration Camp in order to determine the effectiveness of various Spotted Fever vaccines. This department was called the 'Spotted Fever Experimental Station' (Fleckfieber Versuchsstation-Abt. fuer Fleckfieber und Virus Forschung) and was under the direct supervision of Dr. Ding, alias Schuler. This experimental station was set up in Block 46 of the camp. The Hygiene Institute of the Waffen SS in Berlin, under the command of Dr. Joachim Mrugowsky, received all the reports of these activities and Dr. Ding took orders from Mrugowsky. In the early days, that is between 1941 and the summer of 1943, Dr. Ding had many meetings in Berlin with Dr. Karl Genzken concerning his work at Buchenwald in connection with the Spotted Fever experiments. Dr. Ding told me that Dr. Genzken had a special interest in these matters and that he sent him reports at various times. Dr. Ding also said that Dr. Karl Genzken was one of his superiors. From my association with Dr. Ding I understood that the chain of command in the supervision of the 'Spotted Fever Experimental Station' was as follows: Reichsarzt SS Grawitz, Genzken, Mrugowsky and Ding.

"I can recollect that Dr. Genzken gave orders to Dr. Ding in January 1943 to enlarge the experimental station. At this time Block 50 was cleaned out and made into a station for the production of the various

vaccines to be used in the experiments at Block 46. From this time on the experimental station was known as 'Department for Spotted Fever and Virus Research of the Hygiene Institute of the Waffen SS.' Then in the summer of 1943, Dr. Genzken turned all his duties over to Dr. Mrugowsky and from that time on Genzken no longer actively participated in these matters. I can recall meeting Dr. Mrugowsky, in the home of Dr. Ding, on one of his visits to Buchenwald." (NO-429, Pros. Ex. 281, R. 1080).

The witness Kogon testified that Ding corresponded officially with Genzken in connection with the typhus experiments in Buchenwald. (R. 1157). They also carried on a private correspondence. Kogon further stated that Ding had participated in the French Campaign as adjutant to Genzken who "had a special weakness for Ding" and protected him; that from the exchange of letters between Genzken and Ding and from statements by Ding, he knew that Genzken as Chief of the Medical Service of the Waffen SS was the superior of Mrugowsky and Ding; that in the summer of 1943 Mrugowsky's independence increased but Ding resisted this change and wanted to keep Genzken as his chief; that finally in the late summer of 1943, Mrugowsky became the sole chief of Ding. (Kogon, R. 1200-2). The latter part of this testimony has obvious reference to the reorganization of the medical service of the SS in August 1943, when Mrugowsky's subordination was changed from Genzken to Grawitz. Kogon testified that Genzken, as the chief of Ding, was informed of the typhus experiments in Block 46 prior to August 1943. Ding continued to correspond with Genzken and repeatedly invited him to visit "his shop" in Buchenwald. (Kogon, R. 1202). Dietzsch, the kapo in Block 46, states in his affidavit that Ding told him Genzken did visit the experimental station. (NO-1314, Pros. Ex. 433, R. 2040).

That Ding was subordinated to Genzken is conclusively

established by the entry for 9 January 1943 in the Ding Diary, which reads as follows:

"By order of the Surgeon General of the Waffen SS, SS-Gruppenfuehrer and Maj. Gen. (General-leutnant) of the Waffen SS, Dr. Genzken, the hitherto existing spotted fever research station at the concentration camp Buchenwald becomes the 'Department for Spotted Fever and Virus Research.' The head of the department will be SS-Sturmabfuhrer Dr. Ding. During his absence, the station medical officer of the Waffen SS Weimar, SS-Hauptsturmfuehrer Hoven will supervise the production of vaccines. The chief of the Economic and Administrative Headquarters, SS-Obergruppenfuehrer and Lt. Gen. (General) of the Waffen SS Pohl, orders the extension of block of stone buildings.

"SS-Sturmabfuhrer Dr. Ding is appointed at the same time as chief department head for special missions in Amt XVI (Hygiene), of the group department (Amtsgruppe) D (Medical affairs of the Waffen SS) of the SS Main headquarters (Hauptfuehrungsamt)."

Thus, Genzken issued an order to Ding. He would have the Tribunal believe that this was an "approval" rather than an order. (Genzken, R. 3865), but whatever the weight of the distinction the recipient of the communication regarded it as an order from a superior. Genzken also testified that this "approval" concerned itself only with the vaccine production station. (R. 3864). This is obviously not the case since the order speaks of the "existing typhus research station" at Buchenwald and the only such station was the typhus experimental block. The vaccine production station was still in the planning stage and did not begin operation until 15 August 1943. (Genzken, R. 3865). This proves that the name "Department for Typhus and Virus Research" applied to both the experimental and proposed production stations. Moreover, Kogon testified that the name applied to both Block 46 and 50. (R. 1155). Genzken suggested on the stand that Ding probably was mistaken about the date. (R. 3864).

Ding's subordination to Genzken is further proved by the fact that in the same order he was appointed as chief of the department for special missions in Office XVI (Hygiene) of Department D of the SS Operational Headquarters. Genzken was

always the Chief of Department D, which was the Medical Service of the Waffen SS.

The evidence shows that Genzken was informed about the typhus experiments in Buchenwald. Genzken admitted that he knew that Ding had been assigned to test vaccines at Buchenwald at least as early as the occasion on which he infected himself.(R.3605). That occurred on 17 March 1942, a scant two months after the experiments started. He testified that he knew that inmates were used in the experiments, but that he did not know in what manner.(R.3810) It is obvious that he knew artificial infection experiments were being carried out from the fact that Ding infected himself. It is highly coincidental that a doctor would come down with typhus 60 days after beginning vaccine experiments unless a virulent typhus virus was being handled. There was no need for such a virus unless artificial infection experiments were being conducted. Moreover, no evidence was introduced by the defense that a typhus epidemic was prevalent in Buchenwald at that time or any time.

The contention of Genzken that he thought the inmates were simply vaccinated on the off chance they might someday contact typhus naturally is patently absurd even to laymen who know no more of typhus than they have learned from this trial. It is completely exploded by the fact that on 5 May 1942, Genzken received a report from Mrugowsky on the first experimental series in Buchenwald.(Mrugowsky Doc. 10, Mrugowsky Ex. 20, R. 5087). While this report makes no mention of artificial infection, Ding, or Buchenwald, Genzken certainly knew it was the result of Ding's work. Thus we have the picture, as Genzken would have us see it, of Ding beginning his vaccine tests, in January 1942, vaccinating healthy inmates with four different vaccines, retaining an unvaccinated control group, insuring no typhus sickness in the vaccinated group for four to six weeks in

order to be sure of immunity, Ding and all experimental subjects coincidentally coming down with typhus, 30% deaths in the control group and 2 deaths in the vaccinated group, and a neatly typed report going to Genzken on 5 May 1942. Surely with such a fortuitous and orderly typhus epidemic there was no need to resort to artificial infection. If Genzken did not know that the Mrugowsky report dealt with artificial infection experiments by Ding, then he was the only recipient of the report who did not know. Conti, Grawitz, and Gildemeister were certainly well informed; Eyer, a typhus expert of Handloser, visited the experimental station; and Demnitz, manager of the Behring Works and producer of one of the tested vaccines, participated in one of the conferences of 29 December 1941 which planned the experiments (NO-1315, Pros. Ex. 454, R. 3086).

Genzken's contention that he never received reports about Ding's experiments (R. 3008) is further contradicted by the testimony of Kogen, outlined above, and also of Mrugowsky. Mrugowsky testified that as hygienic expert attached to Genzken it was his duty to inform him about all important matters in this field. Genzken admitted he usually reported to him once a week. (R. 3856). In the Spring of 1943, he reported to Genzken about the typhus experiments and vaccine production possibilities in Buchenwald. He did this for three reasons: (1) Ding was planning to give a lecture at the meeting of Consulting Physicians of the Wehrmacht and Genzken as medical chief of the Waffen SS had to be informed of that. (2) Mrugowsky wanted to inform Genzken about the effectiveness of the vaccines tested in Buchenwald, and (3) he wanted to tell him when he could expect vaccine production from Buchenwald and in what amounts. Mrugowsky told Genzken that the vaccines tested in Buchenwald had had different effects with respect to temperature and the number of fatalities. He showed him charts prepared by Ding which gave the temperature and

mortality figures. The heading of the chart showed the day of infection. (Mrugowsky, R. 5367-3). In Paragraph 6 of his affidavit, Mrugowsky was even more emphatic. He stated:

"In April 1943 I made an oral report to Dr. Genzken on the results of the experiments carried out so far. In this report I gave the necessary explanations and showed Dr. Genzken some charts which were sent to me by Dr. Ding's office, and which indicated the fever and pulse curves, the dates of the vaccination and artificial infection, the death rates, complications which arose, etc. One of the experimental series shown in the charts was carried out on people who were only infected but not vaccinated in order to find out the potency of the vaccines used in other cases.

"I made a complete report to Dr. Genzken and it is, therefore, absolutely impossible that Genzken as a doctor should have been ignorant of the fact that human beings were used for these experiments and research". (NO-423, Pros. Ex. 262, R. 1085).

It is thus clear that Genzken was informed fully about the experiments, even to the day the concentration camp inmates were infected. It is no defense even if one assumes the impossible namely, that he did not understand what was reported to him. He was under a duty to inform himself and control the activities of his subordinates. Application of Yamashita, supra.

Genzken admitted that he had personal contacts with Ding after January 1942 but he could not recall whether Ding reported about his experiments. (R. 3814). He admitted that he had official and personal correspondence with Ding. (R. 3816). It is difficult to imagine what the official correspondence concerned except the experiments in Buchenwald.

The essence of Genzken's defense is that Block 46, the experimental station, was not subordinated to the Hygiene Institute of the Waffen SS, and to him, but to Grawitz. It is submitted that if the weight of the Prosecution's proof is entirely disregarded and if the testimony of Genzken is assumed to be true, he must still be found guilty of the crimes committed during the course of

the typhus experiments in Buchenwald. He admits that Ding was subordinated to him with respect to the vaccine production block before 31 August 1943. (Genzken Doc. 11, Genzken Ex. 5, R. 3813). At the very same time he knew that Ding was working in the experimental block. Hoven was appointed as deputy to Ding by Genzken and he was at the same time assisting Ding in the experimental block. Mrugowsky was constantly active in issuing directions with respect to both blocks and he was subordinated to Genzken up until 31 August 1943.

Moreover, the activities of Block 46 and 50 cannot be considered separate and apart from each other as two hermetically sealed compartments. The experiments in Block 46 were not an end in themselves. They were conducted for the purpose of determining which vaccines were effective so that production could be focused on those vaccines. The results of the criminal experiments in Block 46 led directly to the establishment of the vaccine production plant in Buchenwald; the results were utilized directly in the manufacture of vaccines there; and such vaccines were later tested in Block 46 on concentration camp inmates. These facts are all proved by the Ding Diary. Thus, the entry for 19 August 1942 shows that the vaccine made by the process of Durand-Giroud by the Pasteur Institute from rabbit lungs was tested by artificial infection experiments and was found to be effective. Four control persons were killed in these experiments. This is the same vaccine which the production plant at Buchenwald was established by Genzken in January 1943 to produce. The entry for 11 July 1944 states that the "Weimar" vaccine was produced from rabbit lungs according to the process of Durand-Giroud. On 10 September 1942 and again on 26 February and 27 April 1943, Ding was ordered to go to the Pasteur Institute in Paris to procure laboratory material for the Department of

Typhus and Virus Research and the Hygiene Institute. The "Weimer" vaccine was first tested in a series of experiments on 22 January 1944 which resulted in the death of 5 persons.

Should the Chief of the Medical Service of the Waffen SS who knew that Ding had conducted experiments on Concentration Camp inmates with typhus, who ordered Ding to establish a plant in Buchenwald to produce one of the vaccines found to be effective in those experiments, who utilized the services of the co-conspirators Mrugowsky and Hoven, should such a man be found innocent? The Prosecution submits that the responsibility of SS-Gruppenfuehrer Genzken for the criminal typhus experiments in Buchenwald is greater than that of his subordinate, SS-Sturmabfuhrer Ding.

(2) Other Experiments in Buchenwald.

The typhus experiments were not the only contact of the defendant Genzken with the experimental station in Buchenwald. On 5 January 1943 the Behring Works at Marburg sent a letter to Mrugowsky stating that they had been informed by Schreiber that every batch of Yellow fever vaccine had to be tested on human beings before being given to the Army. The letter expressly stated that, "Oberstarzt Dr. Schreiber has told us that in the future the tests on human beings will be made through your office. We will therefore permit ourselves to send you, at certain intervals samples of the various batches. We request information as to whether we also have to send the future batches to Dr. Hoven at Buchenwald". (NO-1305, Pres. Ex. 468, R. 5426). The office through which the tests on human beings were to be made in the future as referred to in the letter, was the Hygiene Institute of the Waffen-SS under Mrugowsky who was directly subordinated to Genzken at that time. The entry in the Ding Diary for

19 January 1943 concerns these yellow fever vaccine tests. A live virus was used in the vaccines tested and the entry stated that each vaccine batch was tested on five persons. A very large number of inmates were vaccinated between 13 January and 17 May 1943. The results of the yellow fever vaccine tests were sent to Office XVI (Hygiene) in the SS Operational Headquarters, which was one of the offices subordinated to Genzken until the end of the war.

Between 24 March and 20 April 1943 a large scale vaccination experiment on 45 inmates of the Buchenwald Concentration Camp was performed according to the entries in the Ding Diary. Each person was vaccinated on eight different days within four weeks against smallpox, typhoid, typhus, paratyphoid A and B, cholera, and diphtheria. In connection with the paratyphoid A and B vaccines, the witness Kogon testified that prisoners were given paratyphoid bacilli in potato salad. He also stated that the experiments in Buchenwald with diseases other than typhus resulted in deaths, although relatively fewer. (Kogon, R. 1182-3). The results of these experiments were also sent to Office XVI.

The entries for 17 July 1944 and 13 October 1944 show that blood was withdrawn from inmates recovering from typhus, between the 13th and 21st day after the fever had subsided, for the purpose of making a typhus convalescent serum. This work was done by SS-Hauptsturmfuehrer Dr. Ellenbeck who, Genzken admits, was attached to the Hygiene Institute of the Waffen SS. (R. 3526). The witness Kogon testified that Ellenbeck obtained blood from typhus convalescents in Block 46 from the summer of 1944 until the Spring of 1945. Blood was taken from these experimental subjects regularly, usually amounting to between 250 and 350 cubic centimeters. Taking the blood from the convalescent patients meant an extraordinary burden on them and a number

of them died. While the precise cause of death could not be definitely ascertained under the circumstances, there is no doubt that the withdrawal of blood was a contributing factor. Kogon testified that this typhus convalescence serum was obtained for the SS Hospital in Berlin, among others, which was under the jurisdiction of Genzken. (Kogon, R. 1192-3). The entries in the Ding Diary show that this serum was sent to Office XVI of Amtsgruppe D of the SS Operational Headquarters. It will be recalled that Genzken was the chief of Amtsgruppe D which was the Medical Service of the Waffen SS.

Kogon further testified that Ellenbeck systematically selected invalids and old persons who were in the so-called "little camp" of Buchenwald for the purpose of withdrawing blood to be used in making blood plasma. The horrible conditions in the "little camp" were vividly described. The blood was demanded from the victims and was taken from them. Sometimes extra food was given to these starving prisoners. (Kogon, R. 1194-6). Upon being asked whether any of these blood donors in the "little camp" in Buchenwald died following the taking of blood from them, Kogon replied:

"the question shows that it is very difficult to gain a real concept of the little camp at Buchenwald. The people died there in masses. During the night the corpses were lying in the blocks naked because they were thrown out of the bunks by the other prisoners so that they would have a little more space. Even the smallest pieces of clothing were torn away from them by those who wanted to survive. It is impossible to determine if directly and immediately as a result of the taking of blood anybody died because many people fell and died while walking around the little camp.

"But it is beyond any doubt to anyone who has known the conditions there that the taking of blood, even if it gave a small measure of strength to these people as far as food was concerned, was a considerable contributing factor in the death of so many of these people". (Kogon, R. 1196).

B. Sulfanilamide Experiments (Indictment, Para. 6 (E))

The criminal nature of the sulfanilamide experiments performed in the Ravensbruck Concentration Camp is set forth in the Prosecution's brief on Gebhardt.

The sulfanilamide experiments began on 20 July 1942 and continued until August 1943. The Hygiene Institute of the Waffen-SS under Mrugowsky, which was subordinated to the defendant Genzken until 31 August 1943, aided and abetted these criminal experiments. Mrugowsky and his hygienic staff consulted with Gebhardt and Fischer about the experiments and furnished the bacteria used for artificial infection of the experimental subjects. Moreover, Dr. Blumenreuter made available the surgical instruments and medicaments for the experiments. Blumenreuter was Chief of Office IV of Genzken. (Genzken, R.3845-6) The preliminary report submitted by Gebhardt on these experiments, dated 29 August 1942, states:

"SS Oberfuehrer Dr. Blumenreuter put the complete surgical instrumentations and medicamentations at my disposal. SS-Standartenfuehrer Mrugowsky put his laboratory and co-workers at my disposal."

As to the manner of artificial infection, the report states:

"The question was to define firstly, by way of a preliminary experiment, the mode of infection, making use of the known results from experiments upon animals. In these questions I was advised by SS-leaders of the Hygienic Institute of the Waffen SS who had taken over the culture and dosage of the inoculation material."

In the first series of experiments cultures furnished by the Hygiene Institute of the Waffen SS included: Staphylococci, Streptococci, Para Oedema Malignum, and Bacteria Freenkel and Earth. The report continues:

"The course of the preliminary series of experiments had proved that we were not successful in producing the same symptoms as of the clinical gas gangrene. In a conference with the Hygienic Institute of the Waffen SS the nature of the infection and the conditions for the germs were not considered to be equivalent to the natural conditions in war surgery and consequently the experimenting arrangements were varied."

Thereafter the infection material was made stronger and a further experiment was conducted. In speaking of this experiment, the report states:

"Since in this experiment too a definite gangrene could be produced clinically speaking, yet its picture did not in any way correspond to the one known in war surgery, after further consultation with the collaborators in the Hygienic Institute of the Waffen SS, the vaccine was changed by adding wood-shavings. It is known in bacteriological literature that the virulence of the bacteria in the experimental animal can thereby be considerably increased." (NO-2734, Pros. Ex. 473, R. 5622).

Substantially the same facts are established by the affidavit of the defendant Fischer. When no serious infections resulted after the first two series of sulfanilamide experiments, it was decided, on the suggestion of Mrugowsky and after consultation with his assistants, to change the type of bacteria and to use a stronger culture. Mrugowsky's office prepared the new culture specifically for the experiments from separate cultures of three or four gangrene cultures which were available. The seriousness of the infections which resulted from this series of experiments was still not typical of battlefield gangrene infections. The Hygiene Institute of the Waffen SS was again consulted. It was on the suggestion of this office that wood shavings and glass were added to the cultures in order to produce a more serious infection. (NO-228, Pros. Ex. 206, R. 768-9). This evidence is further supported by the affidavits of the camp doctors at Ravensbruck, Rosenthal and Scheidlowsky. (NO-858, Pros. Ex. 223, R. 889; NO-508, Pros. Ex. 224, R. 893).

In another affidavit Fischer states that Genzken heard the report on the sulfanilamide experiments at the meeting of Consulting Physicians in May 1943. (NO-472, Pros. Ex. 234, R. 940). Genzken denied he was present. (R.3801).

C. Other Experiments

The proof shows that Genzken had knowledge of and assisted in other criminal experiments.

The notorious high altitude and freezing experiments were not the least of these. On 13 December 1942, Himmler sent a research assignment for further high altitude and freezing experiments to Dr. Rascher in Dachau. This order was distributed to the Medical Office in the SS Operational Headquarters (SS Fuehrungshauptamt) of which Genzken was Chief. (1612-PS, Pros. Ex. 79, R.229). Other copies went to Pohl, Chief of the SS Economic and Administrative Main Office and of all concentration camps, and the Ahnenerbe. Thus, the offices whose cooperation was required in these experiments were informed. The cover letter by Brandt to Himmler's memorandum states that the recipients were "to duly note and accord needed assistance to Hauptsturmfuehrer Dr. Rascher in the carrying through of his experiments". In paragraph (5) of his memorandum, Himmler stated:

"The procurement of the apparatus needed for all the experiments should be discussed in detail with the Office of the Reicharzt-SS, of the SS Main Office for Economics and Administration and with the Ahnenerbe e.V. The necessary chemical products, medical supplies and glassware will be made available by the SS-Sanitaetsamt (SS Medical Office) Berlin."

Genzken admits his office received the directive. (R.3881). He excuses himself by saying that his subordinate Blumenreuter made available medical supplies to all agencies of the SS. (R.3882) That is certainly no defense. The Experiments participated in by Rascher came as no surprise to Genzken. Obersturmbannfuehrer Muethum of the Hygiene Institute of the Waffen SS attended the Luftwaffe meeting in Nurnberg in October 1942 when these experiments were reported on. (NO-401, Pros. Ex. 93, R.309) Genzken admits he attended the meeting of Consulting Physicians in Early December 1942 when they were again reported on. (R.3779)

Moreover, on 21 October 1942, Mrugowsky, his subordinate, conferred with Sievers on cooperation between the Hygiene Institute of the Waffen SS and Rascher, with respect to the freezing experiments. Still a further meeting took place on 20 November 1942. (NO-647, Pros. Ex. 124, R. 383).

Genzken heeded Himmler's admonition of 13 December 1942, that his office was to give needed assistance to Rascher. On 1 February 1943, Sievers met with Blumenreuter for the purpose of securing apparatus, instruments, tools, and chemicals for the experiments by Rascher. (NO-558, Pros. Ex. 122, R. 379).

Nor did Genzken's subordinate Blumenreuter limit himself to assisting Rascher. On 7 June 1943, Clauberg wrote to Himmler about his sterilization experiments on Jewish women in Auschwitz. In these experiments he used an X-ray machine. As to this, he said: "It was SS-Brigadefuehrer Dr. Blumenreuter who finally managed to get me the one suitable x-ray installation." (NO-212, Pros. Ex. 173, R. 570).

It is no defense for Genzken to say he did not know about these things. These criminal experiments were not sporadic, isolated excesses of depraved individuals; they were systematic and planned crimes. Genzken was under a duty to require his subordinates to report to him and to control their actions. Application of Yamashita, supra.

III. Conclusion

Genzken was closely connected with the criminal typhus experiments in Buchenwald between January 1942 and September 1943. These experiments were carried out by medical officers directly subordinated to him. He had knowledge of the details of the experiments. He issued orders respecting the typhus experimentation and vaccine production blocks. The vaccine which was produced in Buchenwald in the block admittedly subordinated to him was the results of the experiments on inmates.

Genzken was connected with other experiments in Buchenwald including the experiments with yellow fever, smallpox, typhoid typhus, paratyphoid A and B, cholera, and diphtheria vaccines, and the withdrawal of blood from inmates for typhus convalescence serum and blood plasma.

Agencies under the control of Genzken furnished infection material, surgical instruments, and medicaments for the brutal sulfanilamide experiments in Ravensbruck. His experts gave technical advice to the doctors performing the experiments as to the manner in which the infections could be made more serious.

Finally, the evidence shows that officers subordinated to Genzken furnished apparatus for the freezing experiments by Rascher and the sterilization experiments by Clauberg. Genzken received the Himmler order to Rascher on high altitude and freezing experiments and was directed to cooperate with him.

There is nothing to be said in mitigation for this defendant. He stood on a high level in the Medical Service of the SS. He had great power. He was well acquainted with the lawless jungles of concentration camps. The Prosecution submits that the evidence proves that Genzken was a principal in, an accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experimentation on human subjects without their consent, in the course of which experiments murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts were committed, and that his guilt has been established under Counts One, Two, Three, and IV of the indictment.

M I L I T A R Y T R I B U N A L N O. I

CASE NO. 1

CLOSING BRIEF FOR
THE UNITED STATES OF AMERICA
AGAINST
SIEGFRIED HANDLOSER

Nurnberg,
16 June 1947.

James M. McHaney
Alexander G. Hardy
Arnost Horlick-Hochwald
Esther Jane Johnson

For:

Telford Taylor
Brigadier General, U.S.A.,
Chief of Counsel for War Crimes



INTRODUCTION

It is charged by the Prosecution under Count I of the Indictment that Handloser conspired and agreed with others, pursuant to a common design, to perform medical experiments on involuntary human beings; and under Counts II and III (War Crimes and Crimes against Humanity, respectively), that he was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with, plans and enterprises involving medical experimentation on involuntary human subjects.

I. POSITION AND RESPONSIBILITY

The defendant Handloser held positions of great power and responsibility in the military medical services of the Third Reich. Having already served as a medical officer in the regular armies under the Kaiser and the Weimar Republic, after 1933, he quickly rose from Chief Medical Officer in the corps area (Wehrkreis) at Stuttgart, to Chief Medical Officer (Chef Sanitäts-offizier) of the German Forces in Austria under General List, when that country succumbed to Nazi aggression in 1938. When war broke out, he became Chief Medical Officer of the 14th Army in Poland and later of the 12th Army in France. In November 1940, he became Deputy Army Medical Inspector. On 1 January 1941 he was appointed Army Medical Inspector (Heeressanitätsinspekteur) and, one month later he also became Army Physician (Heeresarzt) who was the chief medical officer of the field forces, thus creating a personal union of these two offices. (NO-443, Pros. Ex. 10, R. 97; Handloser R. 2818-9). As Army Medical Inspector and Army Physician, Handloser had complete command and control over the entire Army medical service, which was by far the largest of the medical branch of the Wehrmacht. He held those positions from January 1941 until September 1944. (Handloser, R. 2890). For a technical description of the duties of the Army Medical Inspector and Army Physician, see Doc. H.A. 28a, Handloser Ex. 2, R. 2822, and Doc. H. A. 28, Handloser Ex. 1, R. 2821.

In his capacity as Army Medical Inspector, Handloser had subordinated to him the Consulting Physicians of the Army, the Military Medical Academy, the Typhus and Virus Institute of the OKH at Cracow and Lemberg under Dr. Eyer, and the medical school for Mountain Troops at St. Johann. (NO-282, Pros. Ex. 9, R. 97; Doc. H.A. 29, Handloser Ex. 4, R. 2828). He attained the rank of Generaloberstabsarzt (Lt. General, Medical Service).

On 28 July 1942, Hitler issued a decree which was also signed by the Chief of the High Command of the Wehrmacht, Keitel, commissioning the defendant Handloser, a Chief of the Medical Services of the Wehrmacht (Chef des Wehrmachtsanitaetswesens), in addition to his duties as Army Medical Inspector and Army Physician. He was charged with the coordination of all tasks common to the medical services of the Wehrmacht and organizations and units subordinated or attached to the Wehrmacht, and also the medical service of the Waffen SS. Handloser was to represent the Wehrmacht before the civilian authorities in all common medical problems and to protect the interests of the Wehrmacht in all medical measures taken by the civilian authorities. For the purpose of coordinated treatment of these problems a medical officer of the Navy and a medical officer of the Luftwaffe, the latter in the capacity of Chief of Staff, were assigned to work under him. Fundamental problems pertaining to the medical service of the Waffen SS were to be worked out in agreement with the Medical Inspector of the Waffen SS, the defendant Gonzken. (NO-660, Pros. Ex. 5, R. 93; NO-282, Pros. Ex. 9, R. 97).

The Fuehrer Decree of 28 July 1942 was the same one which created the agency of the General Commissioner of the Health and Medical Services under Karl Brandt to whom Handloser, on the military side, and Conti, on the civilian side, were subordinated. This decree was discussed in extenso in the Prosecution brief on Karl Brandt. However much one may dispute about the precise extent of Handloser's authority by virtue of this decree, it

cannot be denied that he was the most powerful officer in the entire military medical services.

Prior to this decree there were four separate medical branches of the Wehrmacht - the Army, Luftwaffe, Navy, and Waffen SS, each operating independently of the other. Pursuant to this decree, Handloser was appointed to coordinate and unify their operations and was directly responsible to Keitel as Chief of the High Command of the Wehrmacht (OKW).

The Fuehrer Decree of 7 August 1944, together with the Service Regulation attached thereto, throw considerable light on the functions of Handloser as Chief of the Medical Services of the Wehrmacht. (NO-227, Pres. Ex. 11, R. 101). According to the testimony of Handloser two things were accomplished by that decree: first he relinquished his positions as Army Medical Inspector and Army Physician, and second, as Chief of the Medical Services of the Wehrmacht, he was given the power to issue orders directly to the Chiefs of the Medical Services of the Army, Luftwaffe, Navy, and Waffen SS. (R. 2999). Formerly, he was empowered to issue instructions but he concedes that Keitel, to whom he was responsible, could have had orders issued for him. (R. 3000; Wuerfler, R. 3109). Therefore, except for the purely technical and immaterial distinction between an order and an instruction, the powers and duties outlined in the Service Regulation of 7 August 1944 were substantially the same as those in the Service Regulation of 28 July 1942, which is unavailable. (See Handloser cross-examination, R. 2992-3004).

The service regulation of August 1944 establishes the fact that Handloser was directly subordinated to the Chief of the High Command of the Wehrmacht. He had authority over the Chief of the Army Medical Service, the Chief of the Navy Medical Service, the Chief of the Medical Service of the Luftwaffe, and Chief of the Medical Service of the Waffen SS, and of all organizations and services employed within the framework of the Wehrmacht, and over all scientific medical institutes, academies and over

medical institutions of the services of the Wehrmacht and of the Waffen SS.

He was the adviser of the Chief of the High Command of the Wehrmacht in all questions concerning the medical services of the Wehrmacht and of its health guidance. He had to direct the total medical service of the Wehrmacht as far as the special field was concerned with regard for the military instructions of the Chief of the OKW and the general rules of the defendant Karl Brandt in his capacity as General Commissioner for the Health and Medical Services. In the field of medical science, his duties were to carry out uniform measures in the field of health guidance, research and combatting of epidemics and all medical matters which required a uniform ruling among the Wehrmacht and, further, in the evaluation of medical experiences. He provided for a uniform and planned direction of the allocation of persons and material.

Such, were the powers and duties of the defendant Handloser as Chief of the Medical Services of the Wehrmacht from the inception of that office in July 1942. He was the superior in "technical" or medical matters of the Chiefs of the medical services of the four branches of the Wehrmacht (cf. Handloser, R. 2983). The fact that these chiefs may have had other military superiors, a matter much stressed by Handloser, is completely beside the point. Handloser's position before September 1944 as Chief of the Medical Services of the Wehrmacht vis-a-vis the chiefs of the medical services of the Wehrmacht branches can be compared with Keitel's position as Chief of the High Command of the Wehrmacht vis-a-vis the commanders-in-chief of the branches of the Wehrmacht. Keitel was in effect the chief of Hitler's military staff. As such, Keitel did not have command authority over the Wehrmacht branches. But this concerns only pure command matters and is not to say that Keitel could not issue directives which were in every sense binding on the Commander-in-chief of the Wehrmacht branches. (Lammers, R. 2687; cf. Judgment of I.M.T., "Trial of the Major War Criminals", p.288).

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The same is true of Handloser as Chief of the Medical Services of the Wehrmacht before September 1944. While he did not have command authority over the Medical Service of the Luftwaffe, for example, in tactical disposition of medical units and-the-like, he did have authority to coordinate the activities of all the medical services and to establish common policy. That he had authority to prohibit medical experiments on concentration camp inmates, without their consent, by members of the military medical services goes without saying.

As Handloser points out in his affidavit, for example, the Army Physician was "militarily" subordinated to the Chief of the General Staff while "professionally" to the Army Medical Inspector. (Doc. H.A. 29, Handloser Ex. 4, R.2828). By the same token, the defendant Schroeder and his predecessor Hippke were militarily subordinated to Goering as Commander-in Chief of the Luftwaffe, in the final analysis, but in medical matters they were subordinated to the Chief of the Medical Services of the Wehrmacht, and both of them have so stated. In Paragraph 8 of his affidavit Schroeder said: "Karl Brandt, Handloser, and Rostock were in charge of the medical research conducted by the Luftwaffe. Handloser was Chief of the Medical Services of the Wehrmacht and my superior in medical matters" (NO-449, Pres. Ex. 130, R. 474). He affirmed that statement under cross-examination. (R. 3804). Hippke testified in Case No. 2 before Military Tribunal No. II that Handloser could give him orders and establish policy. (R. 3001). See, also, the organizational charts of the Medical Service of the Luftwaffe. (NO-418, Pres. Ex. 12; NO-419, Pres. Ex. 13, R. 105).

With respect to the SS, the same facts have been proved. The defendant Genzken, Chief of the Medical Service of the Waffen SS, stated in Paragraph 9, of his affidavit: "Throughout the war, medical field units of the Waffen SS were subordinated to the Medical Service of the Army which was supervised by Dr. Handloser. By Fuehrer decree of July 29, 1942, Dr. Handloser

was appointed Chief of the Medical Service of the Wehrmacht. As a result of this reorganization, Handloser also became my immediate superior as far as medical matters are concerned." (NO-439, Pros. Ex. 24, R. 125). See also the organizational charts of the Medical Service of the SS drawn by the defendant Mrugowsky (NO-416, Pros. Ex. 22; NO-417, Pros. Ex. 23, R. 121). Indeed, the chart of the organization of the Medical Services of the Wehrmacht drawn by the defendant Handloser himself shows his authority over the four medical services in a very clear manner. (NO-282, Pros. Ex. 9, R. 97). If he now seeks to disclaim this authority and state that he was a Chief in name only, then it is done for obvious reasons. The importance of the position of Handloser is further shown on the chart drawn by the defendant Karl Brandt. (NO-645, Pros. Ex. 3, R. 86).

The extensive power and authority of the defendant Handloser as Chief of the Medical Services of the Wehrmacht, particularly with respect to medical research, is also proved by other evidence in the record. Handloser admits that the utilization of material and personnel was a problem common to all branches of the Wehrmacht and was under his jurisdiction as of 28 July 1942. (R. 3004). He admits that coordination of scientific research was one of his tasks in all fields where this was required and necessary. (R. 3038). He concedes that he was well informed on general matters in the field of military medical science. (R. 3005). He called together the chiefs of the medical services in order to avoid duplication of research and he mentioned specifically conferences dealing with malaria, typhoid, para-typhus, and cholera. (R. 3008). In the field of combatting typhus, coordinated measures were taken by all the medical services insofar as delousing was concerned.

He had the power to establish a uniform practice on vaccinations and no regulations were issued without conferring with the consulting physicians. (R. 3009). He issued instructions no later than February 1944 to all the Wehrmacht medical branches to keep the Office for Science and Research under the defendants Karl Bracht and Rostock informed about research assignments. (R. 3008).

One of the principal means used by the defendant Handloser in coordinating scientific research was the joint meeting of Consulting Physicians of the four branches of the Wehrmacht. These meetings were held at least once a year and sometimes more frequently. They were called by the defendant Handloser and were conducted under his direction. (Handloser, R. 3009). The purpose of the meetings was to establish a basis for the issuance of medical directives to the field forces. (Handloser, R. 3020). Lectures were given on medical research by various Consulting Physicians at sessions attended by experts in the particular field, for example, hygiene or surgery. The lectures were subjected to critical examination by their fellow scientists and the practical results were digested, summarized, and issued in the form of directives. (Handloser, R. 3013). The program for these meetings was drawn up under the direction of Handloser. Generalarzt Schreiber, attached to the staff of the Army Medical Inspectorate until late in 1943 and then in charge of the Scientific Group (Lehrgruppe C) of the Military Medical Academy, assisted Handloser in this work. (Handloser, R. 3011, 3020). As we shall see at a later point, a number of criminal experiments performed on concentration camp inmates were reported on at these meetings.

At the Second Meeting of Consulting Physicians from 30 November to 3 December 1942 at the Military Medical Academy, Handloser pointed up forcibly the task of the Chief of the Medical Services of the Wehrmacht in unifying medical scientific research. (NO-922, Pros. Ex. 435, R. 2050).

In addressing the full meeting, he said:

"The demands and extent of this total war, as well as the relationship between needs and availability of personnel and material, require measures, also in military and medical fields, which will serve the unification and unified leadership. It is not a question of "marching separately and battling together", but marching and battling must be done in unison from the beginning in all fields.

As a result, as concerns the military sector, the Wehrmacht Medical Service and with it the Chief of the Medical Services of the Wehrmacht came into being. Not only in matters of personnel and material--even as far as this is possible in view of special fields and special tasks which must be considered--but also with a view to medical scientific education and research, our path in the Wehrmacht Medical Service must and will be a unified one. Accordingly, the group of participants in this Second Work Conference East, which I have now opened, is differently composed from the First Work Conference in May of this year. Then it was a conference of the Army; today the three branches of the Wehrmacht, the Waffen SS and Police, the Labor Service and the Organization Todt are participating and unified.

You will surely permit that I greet you with a general welcome and with the sincere wish that our common work may be blessed with the hoped for joint success.

I would, however, like to extend a special greeting to the Reich Chief of Health Services, Under Secretary Conti, who holds the central leadership of medical services in the civilian sector. I see in his presence not only an interest in our work themes, but the expression of his connection with the Wehrmacht Medical Service and his understanding of the special importance of the Wehrmacht in the field as well as at home. I need not emphasize that we are as one in the recognition of the necessity to assure and ease the mind of the soldier, that he need not worry about the physical well being of the homeland as far as this is within the realm of possibility in wartime." (Emphasis supplied)

Again, at the Fourth Meeting of Consulting Physicians from 16 to 18 May 1944 at Hohenlychen, the defendant Karl Brandt stressed the importance of Handloser's position, saying:

"Generaloberstabsarzt Handloser, you a soldier and a physician at the same time, are responsible for the use and the performance of our medical officers."

I believe, and this probably is the sole expectation of all concerned, that this meeting which today starts in Hohenlychen will be held for the benefit of our soldiers. The achievements to date of your physicians, Herr Generaloberstabsarzt, confirm this

unequivocally, and their readiness to do their share makes all of us proud and-I may also say--confident.

* * * *

It is good simply to call these things by their names and to look at them as they are. This meeting is the visible expression of it - it is, it shall be and it must be so in every respect: the consulting physicians are gathered around their Medical Chief. When I look at these ranks, you Generaloberstabsarzt Handloser, are to be envied; medical experts, with the best and mostly highly trained special knowledge, are at your disposal for care of the soldiers. In reciprocal action between yourself and your medical officers, the problem of our medical knowledge and capacity are kept alive." (NO-924, Pros. Ex. 437, R. 2067)"

This was no accolade paid to a man without power and influence. And it should be noted that this description of Handloser's position was given before the Fuehrer Decree of 7 August 1944.

Handloser also had close connections with the Reich Research Council, the purposes and criminal activities of which are described on pages 8 through 11 of the Prosecution brief on Karl Brandt. Handloser, in the fall of 1942, sought membership in the Reich Research Council himself, but this was not granted on the ground that Keitel represented the Wehrmacht on the Presidential Council. (Handloser, R. 3020). Schreiber, who was subordinated to Handloser as Army Medical Inspector, was also a member of the Reich Research Council. He acted as Plenipotentiary for the combatting of epidemics which was his special field in the Inspectorate. Schreiber was recommended for this position by the Army and there can be no doubt that he represented the Army Medical Inspectorate on the Reich Research Council. (NO-1490, Pros. Ex. 450, R. 3024). His appointment was discussed with Handloser. (R. 3026). Schreiber was a close collaborator of Handloser and worked with him for many years. (Handloser, R. 3054).

These, then, were the positions of responsibility of the defendant Handloser: Generaloberstabsarzt, Chief of the Army Medical Inspectorate, Army Physician, Chief of the Medical Services of the Wehrmacht, Adviser to Keitel, Chief of the High Command of the Wehrmacht, and President of the Scientific Senate of the Medical Services of the Wehrmacht. He used the foregoing positions, and his personal influence, in a manner which involved the commission of war crimes and crimes against humanity as set forth in the Indictment.

II. PERSONAL PARTICIPATION IN CRIMINAL EXPERIMENTS

It is not to be expected that a man in the position and rank of Handloser would personally perform criminal experiments. This was left to subordinates. The proof, however, has clearly shown that he, like Brandt, personally encouraged experimentation on human beings without their consent. He, like Brandt, had full knowledge that concentration camp inmates were being systematically experimented upon by doctors of the medical services which were under his command. He never used his tremendous power as Chief of the Medical Services of the Armed Forces to stop these criminal acts, which resulted in the murder, torture and inhuman treatment of thousands of helpless men, women and children of many different nations.

Under Paragraph 6 of Count II of the Indictment, twelve different types of experiments are particularized. Of these Handloser is charged with special responsibility for and participation in the high altitude, freezing, malaria, gas, sulfanilamide, bone, muscle and nerve regeneration and bone transplantation, sea water, epidemic jaundice, and typhus experiments. Proof has also been introduced on his participation in the biological warfare and gas edema experiments. In order to simplify the issues the Prosecution has withdrawn its charge of participation in the high altitude experiments. (R. 2300).

It is not incumbent upon the Prosecution to show that Handloser was familiar with all the details of all these experiments. It is sufficient to prove that he knew, or should have known, of the systematic use of involuntary human subjects for the purpose of experimentation by agencies over which he exercised a substantial degree of power and authority. He was under a duty to control the agencies subordinated to him. Failure to do so renders him criminally responsible for the acts of his subordinates. Application of Yamashita, 66 S. Ct. 340, 347 (1946). This, and

more, has been proved by the Prosecution.

A. Typhus and Other Vaccine Experiments (Indictment, Paragraph 6 J).

Handloser is charged in the indictment with responsibility for the typhus experiments conducted in the Buchenwald Concentration Camp, primarily by Dr. Ding-Schuler and in the Natzweiler Concentration Camp by Dr. Eugene Haagen. As to the description and criminal nature of the Buchenwald experiments, reference should be made to the Prosecution's brief on Mrugowsky, while with respect to the experiments in the Natzweiler Concentration Camp, to the brief on Rose, we are here concerned only with the connection of the defendant Handloser to those experiments.

Following the invasion of Russia in 1941 typhus became a serious threat to the German Wehrmacht. The use of typhus vaccines was one of the primary methods in meeting that threat. Handloser controlled the distribution of typhus vaccines, first in his capacity as Army Medical Inspector and then as Chief of the Medical Services of the Wehrmacht (Handloser, R. 3072, 3074; Schroeder, R. 3642; Rose, R. 3690). Handloser was equally concerned with the problem of typhus vaccine production. (NO-1318, Ex. 455, R. 3090). His office received production reports. (Handloser, R. 3071). In November 1941, he wrote to Conti, Secretary of State for Health in the Ministry of Interior, suggesting that production of typhus vaccines be placed in the hands of the large scale pharmaceutical industries (NO-1323, Prosecution Exhibit 452, R. 3082). As stated in a letter of June 1943, the defendant Rose requested the Luftwaffe Medical Inspector to urge the Chief of the Medical Services of the Wehrmacht to order the production of typhus vaccines for all armed services in the eastern area (NO-306, Prosecution Exhibit 296, R. 1387). Handloser, as Chief of

the Medical Services of the Wehrmacht, was alone competent to decide upon the procurement of vaccines for the Wehrmacht (NO-131, Prosecution Exhibit 309, R. 1404).

One of the important problems with respect to typhus vaccines was the effectiveness of the so-called Cox-Haagen-Gildemeister vaccine, which was produced from egg yolks. The Typhus and Virus Institutes of the OKH at Gracow and Lemberg were engaged in the production of the Weigl vaccine from the intestines of lice. However, this process was quite expensive and complicated and these two institutes could by no means produce sufficient quantities of the vaccine for the Wehrmacht. The Weigl vaccine had been used for some years and was regarded as quite effective. The egg yolk vaccine was produced by the Robert Koch Institute and the Behring Works, among others, and its production was much simpler than in the case of the Weigl vaccine. Its protective qualities, however, were not regarded as having been sufficiently proved. It was therefore necessary, before undertaking large scale production, to establish its efficacy. These facts are established by the affidavit of Handloser, dated 3 October 1945. (NO-732, Pros. Ex. 451, R. 3060).

The entry for 29 December 1941 in the Ding Diary proves that a conference was held on that date between Handloser, as Army Medical Inspector, Conti, of the Ministry of Interior, Reiter of the Public Health Department, Gildemeister of the Robert Koch Institute, and Mrusowsky of the Hygiene Institute of the Waffen SS (NO-266, Pros. Ex. 287, R. 1134). At this conference it was decided that the typhus vaccine from egg yolks was to be tested on human beings to determine its efficacy. A few days later the first experimental series started in Buchenwald to test the anti-infectious character of egg yolk vaccines. Five experimental subjects died as a result of being artificially infected with typhus.

The proof shows that on the same day an earlier con-

ference was held which discussed the same problem. (NO-1315, Pros. Ex. 454, R. 3086). This conference took place at the Reich Ministry of Interior and was attended by Beiber of the Reich Ministry of Interior, Gildemeister, representatives of the Government General in occupied Poland, officials of the Behring works of I. G. Farben, and Oberstabsarzt Scholz of the Army Medical Inspectorate. Scholz was a subordinate of the defendant Handloser. (Handloser, R. 3086). The minutes of this conference state that:

"The vaccine which is presently being produced by the Behring Works from chicken eggs shall be tested for its effectiveness in an experiment. For this purpose Dr. Beiber will contact Obersturmbannführer Dr. Mrugowsky."

Since Mrugowsky was not present at this conference, it is obvious that another conference took place in which this matter was discussed with him and this, of course, corroborates the entry in the Ding Diary. The defendant Rose admitted, on cross-examination, that without question a conference other than the one presided over by Beiber took place and that the series of experiments at Buchenwald were agreed upon at that time (R. 6468). Rose also pointed out that the Buchenwald experiments were approved by the State. (R. 6467). A copy of the minutes of the conference attended by Scholz was sent to Handloser's office. (NO-1321, Pros. Ex. 453, R. 3084).

Handloser admits the possibility that he took part in a conference as described in the Ding Diary. (R. 3061, 3066). In his affidavit of 3 October 1945 he stated:

"4. According to the statement of the interrogating American officer, I was supposed to have attended a meeting in 1941, at which Raiter, COMI, and MRUGOWSKI were present, and to have suggested the carrying out of typhus research on human beings. (See No. 10)

I cannot recollect the date, place and participants, nor the course of such a meeting because of the many years that have passed and the numerous incidents that have occurred.

"5. As far as the typhus problem is concerned, it may have been the following: Production of the known, very effective typhus vaccine, according to the method of Prof. WEIGEL of Lemberg, which was derived from lice, was far behind the actual demands, despite an increase. Typhus vaccine was also produced in the Robert KOCH Institute, through cultures in chicken eggs; its dependable efficiency, however, was not sufficiently proved. To provide adequate protection for the combat areas, as well as for the zone of the interior against typhus, it became necessary to clarify the value of this vaccine at the earliest moment. It is therefore quite possible that in the course of a conference Dr. MRUGOWSKY might have been assigned to carry on studies about parallel tests, about dosage, compatibility and efficiency of this typhus vaccine in the human being. The purpose was to arrive at a final conclusion whether the vaccine produced by the Robert KOCH Institute was adequately efficient and could be used in the Wehrmacht and in typhus areas in the Eastern Front with a considerable prospect of success." (NO-732, Pros. Ex. 451, R. 3060).

Handloser testified that a number of conferences on typhus and typhus vaccines occurred. (R. 3061). One of the primary problems was the efficiency of the egg yolk vaccine. He met Mrugowsky in the summer of 1941 who was recommended to him by Schreiber of the Army Medical Inspectorate. Mrugowsky thereafter was in contact with the Wehrmacht. (Handloser, R. 3063). He admits that he had personal contact with Mrugowsky (R. 3064). One such occasion was a conference concerning combined vaccinations (R. 3064; see infra.). Handloser admits that he had contacts in the winter of 1941 with Gildemeister concerning egg yolk vaccines (R. 3067), and that he had similar contacts with Genti (R. 3068). Handloser, while admitting the problem in connection with the egg yolk vaccine, denies knowledge of how that problem was resolved although he admits its resolution. (R. 3079).

There is no question that the Ding Diary is authentic and in every respect reliable. Its contents have been

repeatedly corroborated by other documents. (See brief on Mrugowsky). Substantially every page of the Diary is signed by Ding or, as he was later known, Schuler. That these signatures are genuine is proved by comparison to uncontested signatures of Ding-Schuler in the record. (See brief on Mrugowsky). Handloser participated in the conference at which the fundamental decision was reached to test typhus vaccines by artificially inducing typhus in human experimental subjects. Pursuant to that decision typhus experiments in Buchenwald were performed.

The proof has shown that medical officers under the direct command of Handloser were informed of the details of the typhus experiments in Buchenwald. A letter from the defendant Mrugowsky, dated 5 May 1942, which was sent to Oberstabsarzt Dr. Eyer of the Typhus and Virus Institute of the High Command of the Army at Cracow, among others, describes the results of the first series of experiments carried out in Buchenwald. (Doc. Mrugowsky 10, Mrugowsky Ex. 20, R. 5087). This experimental series concerned the testing of the Weil vaccine from the Typhus and Virus Institute of the Army in Cracow and the egg yolk vaccines produced by Gildemeister of the Robert Koch Institute and the Behring Works. Mortality in the unvaccinated group was stated to be 30 per cent, while two persons died who had been vaccinated with the Behring vaccines. Here again this document produced by the defense corroborates in every detail the entries in the Ding Diary concerning the first experimental series. Thus, Handloser participated in the decision to conduct the typhus experiments at Buchenwald and his subordinate Eyer, a typhus expert of the Army, was informed of the results of the experiments.

This was not the only contact of the Army Medical Inspectorate and Handloser with the typhus experiments at Buchenwald. The witness Kogen testified that Ding corresponded with the Military Medical Academy in Berlin and the Typhus and Virus Institute of the OKH in Cracow concerning the typhus experiments. (R. 1157). The Ding Diary shows that on 8 February 1943 Eyer and Dr. Schmidt, a hygienist attached to the Army Medical Inspectorate, inspected the Buchenwald typhus experimental station. This entry in the Ding Diary was corroborated by the Work Report of the Typhus and Virus Institute of the Waffen SS at Buchenwald for the year 1943. (NO-571, Pros. Ex. 285, R. 1115). Schmidt was called as a witness for the defendant Handloser and testified that he and Eyer made the visit to Buchenwald to demonstrate to certain SS doctors, who he could not name, how a new container for yellow fever vaccine should be broken open. (R. 3181). This ridiculous statement that two important hygienists of the Army Medical Inspectorate should make the long trip to Buchenwald for such a perfunctory purpose is incredible. Even the defendant Rose found Dr. Schmidt's testimony absurd. (R. 6201-2). Schmidt worked under Handloser in Berlin from 1942 until August 1944. (Handloser, R. 3059). Schmidt and Eyer may very well have visited the experimental station in Buchenwald in connection with the yellow fever vaccine tests being conducted there, but it is entirely incredible that they did not inspect the typhus block because that is where the vaccine experiments were conducted. (See, infra). A typhus experiment was in progress the very day they were there.

Proof has also shown that typhus infected lice were furnished to the Buchenwald experimental station by the

Typhus and Virus Institute of the OKH (Kogon, R. 1220-1; Kirchheimer, R. 1326). Schmidt denied this and suggested the lice came from the Behring Works in Lemberg. The fact is that there were only three places in Germany where the lice could have come from -- the Typhus and Virus Institutes of the OKH at Cracow and Lemberg and the Behring Works at Lemberg (Schmidt, R. 3171). These were the only institutes manufacturing the Weigl vaccine and which, therefore, had infected lice available. (Schmidt, R. 3174). Two of these institutes were under the control of the Army while the third was a semi-private institution; but even the Behring Works in Lemberg was supported by the Army and its personnel was trained by Dr. Weigl of the Army. (NO-1315, Pres. Ex. 454, R. 3086). Since the Buchenwald typhus experimental station had obtained the Weigl vaccine for experimentation months before the Behring Works plant was established in Lemberg, it is quite apparent that this material, together with the lice, were furnished by the Typhus and Virus Institute of the OKH. The conclusive answer, however, is given by the Dietzsch Diary which shows that the lice were received before 30 November 1942. The entry for 15 December 1942 proves that only then was the Behring Works in Lemberg opened. Moreover, the affidavit of Dietzsch states that the lice were brought to Buchenwald by a Wehrmacht officer. (Hoven Dec. 1, Hoven Dec. Book 1, p. 1).

Dr. Ding-Schuler reported on the Buchenwald experiments at the meeting of the Consulting Physicians of the Wehrmacht in May 1943 at the Military Medical Academy in Berlin. (NO-923, Pres. Ex. 436, R. 2063). Handloser was present at this meeting. (Handloser, R. 2943). The report itself, which Handloser may not have heard personally, was delivered to the section of hygienists which was presided

over by Generalarzt Schreiber of the Army Medical Inspectorate, a subordinate of Handloser. The defendant Rose heard Ding speak and he raised objections to the character of the Buchenwald experiments. (Rose, R. 6166). A witness for the defendant Rose went so far as to testify that from what Rose said it was to be concluded that he regarded these experiments as murder. (Hoering, R. 6073). He said that concentration camp inmates were used in the experiments. (Hoering, R. 6074). That Schreiber did not inform Handloser about these untoward events in the meeting of the hygienists is incredible. It should be noted that at the same meeting of consulting physicians, Handloser heard the report on the sulfanilamide experiments conducted by Gebhardt, Fischer, and Oberheuser at the Ravensbruck Concentration Camp.

The typhus experiments were not the only contact of the defendant Handloser with the experimental station in Buchenwald. On 5 January 1943 the Behring Works at Marburg sent a letter to Mrugowsky stating that they had been informed by Schreiber that every batch of yellow fever vaccine had to be tested on human beings before being given to the Army. The letter expressly stated that, "Oberstarzt Dr. Schreiber has told us that in the future the tests on human beings will be made through your office. We will therefore permit ourselves to send you, at certain intervals, samples of the various batches. We request information as to whether we also have to send the future batches to Dr. Hoven at Buchenwald." (NO-1305, Pres. Ex. 469, R. 5426). How is it that Schreiber was so informed that he could advise the Behring Works to have the yellow fever vaccine tested on human beings by Mrugowsky in Buchenwald? The answer is obviously that officials of the Army Medical

Inspectorate, including the defendant Handloser, already knew of and had participated in the typhus experiments in Buchenwald prior to 5 January 1943. The entry in the Ding Diary for 19 January 1943 concerns these yellow fever vaccine tests. The vaccines produced by the Behring Works at Marburg, the Robert Koch Institute, and the Institute for Typhus and Virus Research of the OKH in Gracow were all tested. A live virus was utilized in this vaccine and the entry states that each vaccine batch was to be tested on five persons. A very large number of inmates were vaccinated between 13 January and 17 May 1943 at which time production of the yellow fever vaccine was abandoned because of the military situation. The results of the yellow fever vaccine tests were sent in duplicate to the defendant Mrugowsky and to Dr. Schmidt of the Army Medical Inspectorate. (NO-265, Pres. Ex. 287, R. 1146-7). Schmidt was the hygienist attached to the Army Medical Inspectorate and he worked under Handloser until August 1944. (Handloser, R. 3059). He testified that he knew nothing about these vaccine experiments although he was in Buchenwald while they were in progress. (R. 3184).

As hereinbefore noted, Handloser admitted that in the early part of 1943 he had a conference with the defendant Mrugowsky concerning combined vaccines against diarrhea, typhoid, cholera, etc. (Handloser, R. 3064). There can be no doubt that this conference was the motivation for the large scale vaccination experiments on 45 inmates of the Buchenwald Concentration Camp between 24 March and 20 April 1943, as set forth in the Ding Diary. Each person was vaccinated on eight different days within four weeks against smallpox, typhoid, typhus, para-typhoid A and B, cholera, and diphtheria. In connection with the para-typhoid

A and B vaccines, it should be noted that the witness Kogon testified that prisoners were given para-typhoid bacilli in potato salad. He also stated that the experiments in Buchenwald with diseases other than typhus resulted in deaths although relatively fewer. (Kogon, R. 1182-3).

Other entries in the Ding Diary show a close connection between the Army Medical Inspectorate under Handloser and the experiments in Buchenwald. Several entries from the 21st December 1943 to 16th June 1944 prove that old blood plasma was tested on concentration camp inmates in Buchenwald by Ding on order of the Military Medical Academy in Berlin, which was subordinated to Handloser. Kogon testified that inmates from Buchenwald were used in these experiments and some of the subjects died, probably due to the combination of the shock resulting from the transfusion of the old blood plasma and their poor physical condition. (R. 1190-1).

Typhus experiments were also conducted on inmates of the Natzweiler Concentration Camp by Dr. Eugene Haagen, Consulting Hygienist of the Luftwaffe Air Fleet Reich. (See Prosecution brief on Rose). The High Command of the Wehrmacht, of which Handloser was Medical Chief, obtained reports on these experiments (Eyer, R. 1765). In this connection reference is again made to the statement of Schroeder that Handloser was informed of medical research carried out by the Luftwaffe. (NO-449, Pros. Ex. 130, R. 471). A letter of Kahnt, Chief of Staff to Schroeder, dated 29 August 1944, and addressed to Haagen proves that the research work of Haagen was brought to Handloser's attention. Haagen had been conducting research

on an attenuated avirulent typhus vaccine with a view to establishing a production plant at the University of Strasbourg. Kahnt advised Haagen that, "A decision as to the establishment of a vaccine manufacturing plant cannot be made because the Chief of the Medical Services of the Wehrmacht who alone is competent to decide upon the procurement of vaccines has not yet taken a stand in the matter." (NO-131, Pres. Ex. 309, R. 1404; See also NO-306, Pres. Ex. 296, R. 1337).

The typhus research of Haagen was classified "Urgent" in a meeting of the Office for Science and Research under the defendant Rostock in August 1944 which was attended by members of the Reich Research Council and the Wehrmacht. Copies of a letter listing the various research assignments which were classified "Urgent" at this meeting were sent to the various medical branches of the Wehrmacht (NO-692, Pres. Ex. 457, R. 3408; Rostock, R. 3409; See also the affidavit Rudolf Brandt, NO-370, Pres. Ex. 294, R. 1385).

Under these circumstances it must be concluded that the defendant Handloser was informed of the criminal experiments conducted by Haagen.

E. Freezing Experiments (Indictment, Para. 6 (E))

The criminal character of the freezing experiments conducted in the Dachau Concentration Camp are described in detail in the Prosecution's brief on Sievers. These experiments were the subject of two oral reports by Holzlochner, who conducted the experiments with Rascher and Finko. Both reports were delivered to a large group of military physicians. The first occasion was at a meeting in Nurnberg on cold problems held on 26 and 27 October 1942. This meeting was sponsored by the Luftwaffe, but representatives of all branches of the Wehrmacht were present, including Schreiber, one of Handloser's closest collaborators in the Army Medical Inspectorate, Cramer of the Mountain Medical School of the Army at St. Johann, and several officers attached to the Military Medical Academy. The published report on the meeting shows that Holzlochner gave a very detailed clinical description of the effects of freezing on human beings. (NO-401, Pros. Ex. 93, R.309). It is obvious from the report itself, and particularly with respect to the supplementary statement by Rascher, that experiments were being described rather than observations in sea rescue. Aviators in distress are not left in the ocean in order to record their temperatures thermoelectrically. One need not speculate on that, however, as the witness Lutz testified that Holzlochner's report caused a sensation at the meeting as it was made clear that concentration camp inmates were used as subjects and that some of the victims died. (R. 272). Rose stated that this lecture received no applause and that Holzlochner was very disturbed because of his participation in the experiments. (R. 6470).

Dr. Cramer of the Mountain Medical School of the Army, which was subordinated to Handloser, was so enthusiastic about the freezing experiments that he asked

Rascher for permission to see the actual experiments and to cooperate with him on dry cold experiments. (MO-319, Pros. Ex. 96, R. 328; 1579-PS, Pros. Ex. 97, R. 329).

That Schreiber informed Handloser about the freezing experiments is proved by the fact that Holzloehner was invited to lecture at the Second Meeting of the Consulting Physicians of the Wehrmacht on 30 November to 3 December 1942 at the Military Medical Academy in Berlin. (NO-922, Pros. Ex. 435, R. 2059). The medical services of the Wehrmacht were intensely interested in freezing problems as a result of the catastrophic winter of 1941-42. (Handloser, R. 3028-30). The report on this meeting shows that Handloser commented on the cold lectures and he admits having heard Holzloehner's talk, (R. 3033, 3096.) The medical directives issued provide for treatment of shock due to prolonged exposure to cold by rapid rewarming with a hot bath. (Handloser, R. 3031). It is apparent that a directive which so deviated from the established practice of slow rewarming (Handloser, R. 3030) would not have been issued without careful investigation of Holzloehner's work by the responsible medical officers subordinated to Handloser.

C. Sulfanilamide Experiments (Indictment Para. 6 (E))

As to the description and criminal nature of these experiments, reference may be made to the Prosecution's brief on Gebhardt.

The preliminary report by Gebhardt on the first few sulfanilamide experiments shows the interest of the Army Medical Inspectorate in the subject under investigation. One paragraph of the report says that:

"The triple-distribution was reserved for the 2nd series of experiments now in progress. Three prisoners in each group were inoculated. One person was left without treatment as control, the second was treated with Catoxyn as before and with the third the Marfanilprontalbin powder manufactured by I. G. Farben was employed, since

this was strongly recommended by the Army Medical Inspectorate." (NO-2734, Pros.Ex.473, R. 5622).

A full report on the sulfanilamide experiments performed on concentration camp inmates at the Ravensbruck Concentration Camp was given by Gebhardt and Fischer at the Third Meeting of the Consulting Physicians, held from 18 to 19 May 1943 at the Military Medical Academy in Berlin. It was Handloser who issued the invitations to the meetings of the Consulting Physicians, presided at these meetings, and supervised the selection of speakers and subjects. (Handloser, R. 3009). The military Medical Academy was under his command. Gebhardt testified that he insisted on making a complete report on these experiments at the meeting in May 1943, that there was considerable discussion about the content of the lecture with the person in charge of the program for the meeting, that this was either Schreiber or the defendant Rostock, that the program for the meeting listed his lecture under the title "Special Experiments", that this indicated he was trying to show something unusual, and that the whole subject was fully discussed with either Schreiber or Rostock during the arrangements for the meeting of May 1943. (R. 4103-06). There had been continuous correspondence concerning the experiments between Gebhardt, Grawitz, and Schreiber or Rostock. Grawitz had a complete report on the experiments when he negotiated with Schreiber or Rostock. (Gebhardt, R. 4107). Schreiber stated he received information on the experiments through official channels. (Gebhardt R. 4108). Whether Gebhardt discussed the experiments and the report to be made at the meeting in May 1943 with Schreiber or Rostock need not be argued at this point. Both men were subordinated to the defendant Handloser and the arrangements for the meeting were subject to his final approval. Gebhardt testified quite clearly to the effect that he was opposed to any

camouflage and that he was anxious to bring the whole subject of these experiments into the open.

Handloser admits that he was present at the lecture given by Gebhardt and Fischer. (R. 2343). Gebhardt testified that when he gave the introduction to the lecture, he expressly stated that the experiments had been carried out on human beings. (R. 4109). Gebhardt does not definitely remember whether he said the experimental persons were concentration camp inmates. The defendant Fischer has stated that this was made clear. (NO-472, Pros. Ex. 23, R. 941; cf. Fischer, R. 4365). It is not contraverted that the clinical details of the experiments were explained in great detail. The meeting was told that 75 persons had been experimented on, that the infections had been artificially produced, that various drugs were used in treating the infections, that surgical treatment was used, and that three persons died. (Gebhardt, R. 4109-10). Every detail was explained.

The defendant Fischer stated in his affidavit that when the sulfanilamide experiments started, he was told that they were being carried out on order of the Chief of the Medical Service of the Wehrmacht and the Chief of the Medical Service of the State, with the initial order from Hitler. (NO-472, Pros. Ex. 234, R. 941). Fischer repudiated this statement on the stand, but under the circumstances it is clear that his admissions prior to indictment are entitled to considerable weight. His statement is supported by the very purpose of the experiments, which was to find an effective remedy for battle wound infections. Who in Germany could have been more concerned with these experiments than the Chief of the Medical Services of the Wehrmacht? Moreover, the results of the experiments, meagre as they were, were promptly utilized by the Medical Services of the Wehrmacht. (Handloser, R. 3050).

The results of the sulfanilamide experiments were summarized in the report of the Third Meeting of Consulting Physicians and medical directives were based upon these experiments and distributed throughout the medical services of the Wehrmacht (NO-923, Pres. Ex. 436, R. 2063; Gebhardt Ex. 10, R. 4112-18). It should be noted that this report itself makes clear that the experimental subjects were artificially infected.

Gebhardt insisted, during his direct examination, that one of the purposes of his frank report to the Meeting of Consulting Physicians was to put the justification for these experiments in issue. He testified, "I insisted that a completed experiment would only have its justification given to it if subject to a clear description of its progress. One would submit it to a source up to then not concerned with the matter at all, the entire picture together with the question: are the conclusions which I am now making, and is what I am introducing for thousands of SS men -- is that right or is that wrong? In which connection, of course, I also had the personal wish that my name should have the protection of experts and that the State should be forced to recognize publicly the emergency in which I found myself." (R. 4115). Gebhardt was not disappointed; his experiments received at least tacit approval. Handloser heard the lecture, but raised no objection, made no investigation and took no action. Had he performed his duty of investigation, he would have been able to prevent the last series of experiments in Ravensbruck, which were carried out as late as August 1943. That series of experiments was performed on six Polish women who were operated on by force in the dirty bunker at the Ravensbruck Concentration Camp. (NO-564, Pres. Ex. 229, R. 923). If he had investigated the sulfanilamide experiments, the bone, muscle and nerve experiments (Indictment Para. 6 (F)), which were conducted by the same persons at the same place, would have been brought to light. But Handloser did nothing. The fact is that he had no objection to experimentation on concentration camp inmates without their consent. He knew and approved of this

policy as early as the first part of 1942, when he participated in the initiation of experiments with typhus vaccines in the Buchenwald Concentration Camp. And in December 1942 at the Second Meeting of Consulting Physicians, he heard the report of Holzloehner on the freezing experiments at Dachau. It can only be concluded that Handloser, far from objecting to such experiments, actively supported them.

D. Epidemic Jaundice (Indictment, paragraph 6 H).

Following the attack on Russia, epidemic jaundice (hepatitis epidemica) became a disease of major proportions for the German Wehrmacht. (Gutzeit, R. 2707). In some units, casualties up to 60 percent were reported from this disease. (NO-010, Pres. Ex. 187, R. 735). Accordingly, an intensive effort was made to discover the causes of and vaccinations against epidemic jaundice. Dohmen and Gutzeit of the Army Medical Inspectorate and Haagen of the Medical Services of the Luftwaffe were among the doctors working on this subject.

Dohmen and Gutzeit were attached to the Military Medical Academy and directly subordinated to Schreiber (Gutzeit R. 2752). The Military Medical Academy was, of course, subordinated to Handloser as Army Medical Inspector. (Gutzeit, R. 2740). Gutzeit was also Consulting Internist to Handloser. (Gutzeit, R. 2700). Dohmen was one of the first to isolate a virus which was claimed to be cause of jaundice. This was accomplished by inoculating animals with germs taken from human beings suffering from the disease (Gutzeit R. 2695). However, considerable divergence of opinion still existed as to whether jaundice was caused by bacteria or a virus. (Gutzeit, R. 3045). On 1 June 1943, Grawitz, Reich Physician of the SS - requested Himmler to make concentration camp inmates available for infection by Dohmen with his virus. He stated that cases of death among the

experimental subjects were to be anticipated (NO-010, Pros. Ex. 187, R. 735). It was not stated whether the deaths were to be brought about for the purpose of performing autopsies (as in the cases of the high altitude experiments) or whether they were to be expected from the disease itself (as in the cases of the typhus experiments).

Himmler consented to the use of eight Polish Jews who had been condemned to death in the Auschwitz concentration Camp and to Dohmen's conducting the experiments. (NO-011, Pros. Ex. 188, R. 737). The experiments were carried out by Dohmen in the Sachsenhausen Concentration Camp, and according to the affidavit of the defendant Rudolf Brandt, some of the experimental subjects died as a result. (NO-371, Pros. Ex. 186, R. 733). Even the defense witness Gutzeit, who collaborated closely with Dohmen, admits that Dohmen worked in Sachsenhausen, but stated that this was merely a ruse to avoid turning over the jaundice virus to Grawitz and in reality no infection experiments were performed. (Gutzeit, R. 2722). Gutzeit did not explain, however, why Dohmen, who was in no way subordinated to Grawitz, should have engaged in such ridiculous scientific "horseplay". (Gutzeit, R. 2758).

In weighing the credibility of the testimony of Gutzeit, consideration should be given to the fact that he was a member of the SS himself and that he was closely associated with Dohmen in his work. (Gutzeit, R. 2760).

In June 1944, a conference of experts was called by Handloser for the purpose of coordinating jaundice research. This conference took place at Breslau and was presided over by Schreiber (Gutzeit, R. 2752). Handloser, Gutzeit, and Hagen, a Consulting Hygienist of the Air Fleet Reich, were all present at this conference. (Gutzeit, R. 2717). Schreiber assigned groups of physicians to work together on

jaundice problems. Dohmen, Gutzeit and Haagen were assigned to one of these groups. (Gutzeit, R.2717). On 12 June 1944, Haagen himself requested Schreiber to assign Dohmen to work with him. Generalarzt Schreiber at that time was commander of the Military Medical Academy. (NO-299, Pres. Ex. 190, R.739). Schreiber complied with this request. (NO-300, Pres. Ex. 191, R. 740).

On 24 June 1944, Gutzeit wrote to Haagen that he was also requesting Schreiber to assign Dohmen to Haagen. He went on to state that he was making preparation for experiments on human beings and he wanted Haagen to supply him with his virus material. (NO-124, Pres. Ex. 193, R. 743). Haagen replied to Gutzeit's letter on June 27, 1944 stating that he was glad that Dohmen would be assigned to him as of 15 July. He further stated that he was working with Kalk, Eutchner and Zuchschwert, all officers of the Luftwaffe, on jaundice problems and that he had arranged with Kalk to conduct human experiments with his material. (NO-125, Pres. Ex. 194, R. 744). On the same date Haagen wrote to his collaborator Kalk, who was attached to the staff of the defendant Schroeder, stating as follows: "In the enclosure I send you a copy of a letter from Gutzeit and my reply. We must proceed as soon as possible with the experiments on human beings. These experiments, of course should be carried out at Strassburg or in its vicinity. Could you in your official position take the necessary steps to obtain the required experimental subjects. I don't know what sort of subjects Gutzeit has at his disposal, whether they are soldiers or other people".(NO-126, Pres. Ex. 195, R.745).

The remark about "other people" is an obvious reference to concentration camp inmates, upon whom Haagen had long since been experimenting with virulent typhus virus, while the reference to "Strassburg or in its vicinity", indicates

the Concentration Camp Natzweiler. (see supra on typhus experiments). Herr Kalk and his Chief, the defendant Schroeder, were well advised on how to procure Concentration Camp inmates for medical experiments because only a few weeks before Schroeder himself had requested inmates from Himmler for the sea water experiments. (NO-185, Pros. Ex. 134, R. 483).

The record shows that Dohmen did in fact go to Strassburg to work with Haagen on the direct orders of Schreiber. (Gutzeit, R. 2752). Handloser was advised of this collaboration of Dohmen and Haagen. (Gutzeit, R. 2757).

Still another series of jaundice experiments were planned with which Handloser was connected. On 29 January 1945, Mruzowsky wrote to Grawitz as follows:

"Hauptsturmfuehrer Professor Dr. Dresel, Director of the Hygienic Institute of the University of Leipzig has cultivated a Virus from persons suffering from Hepatitis and succeeded in transplanting it on animals.

It is necessary to make experiments on human beings in order to determine the fact that this Virus is indeed the effective Virus Hepatitis epidemica. The plenipotentiary for research on epidemics in the Reich Research Council therefore addressed himself to me with the request to carry out the above experiments.

I am asking you to obtain authorization from the Reichsfuehrer SS to carry out the necessary experiments on 20 suitable prisoners who have hitherto never suffered from Hepatitis Epidemica, at the typhus experimental station of the Concentration Camp Buchenwald. (NO-1303, Pros. Ex. 437, R. 5400).

The Plenipotentiary for research on epidemics in the Reich Research Council who requested these experiments on Concentration Camp inmates was Generalarzt Schreiber, at the same time commander of Lehrgruppe C of the Military Medical Academy under Handloser. (Mruzowsky, R. 5402). Schreiber had been designated by Handloser for the very purpose of coordinating jaundice research and the meeting in

Ereslau was called to that end.

In view of this evidence outlined above, it can only be concluded that the jaundice experiments were carried out by subordinates of the defendant Handloser with his knowledge and approval.

E. Other Experiments.

(1) Gas Experiments (Indictment, Par. 6 (D))

From the winter of 1942 until the summer of 1944, experiments to determine the most effective treatment for wounds caused by mustard (Lost) gas were conducted in the Natzweiler Concentration Camp under the supervision of Professor Hirt of the University of Strasbourg. For a description of the criminal nature of these experiments, reference may be made to the brief on Sievers.

In June 1942, Hirt wrote a report on his experiments in treating gas wounds with vitamins. (NO-097, Pros. Ex. 260, R. 1022). These experiments were conducted on orders of the Wehrmacht. He stated he had not been able to conduct experiments on human beings because of the offensive against France. He submitted a report on the experiments to his "Generalarzt, who transmitted it to Berlin". In this report he suggested direct experiments on human beings with gas in order to determine the protective effect of vitamin treatment (ibid).

In the subsequent gas experiments on concentration camp inmates at Natzweiler, doctors of the Luftwaffe worked with Hirt. (Holl, R. 1059, 1061). Oberarzt Wimmer, a Staff Physician of the Luftwaffe, was the principal collaborator of Hirt. He was put at the disposal of Hirt for these "war important" gas experiments by the Luftwaffe Medical Training Department VII. (NO-195, Pros. Ex. 266, R. 1033).

Handloser testified that he was very interested in medical problems in connection with chemical warfare agents. (R. 3038) The consulting specialist to the Army Medical Inspectorate on this subject was Oberstarzt Wirth whom Handloser had known for years. Wirth was attached to the Military Medical Academy. (Handloser, R. 3040) The criminal experiments by Professor Bickenbach of the University of Strassbourg with phosgene gas, described in the brief on Karl Brandt, were conducted with the knowledge of Wirth. In the Second Report on these experiments it is noted that Wirth made an inspection of Bickenbach's institute. (NO-1652, Pres. Ex. 456, R. 3406).

That Handloser's subordinate Wirth was cooperating with Karl Brandt on gas research pursuant to the Fuehrer Order is further evidenced by the fact that Wirth suggested decontamination tests on water poisoned with Lost gas. The report on these experiments carried out on inmates of the Neuengamme Concentration Camp states that: "A third series of experiments was carried out with an agent of the Lost group, the asphyxiating gas Lost, in accordance with the suggestion made by Oberstarzt Dr. Wirth at the conference on 4 December 1944 with Reichkommissar Dr. Brandt." (NO-164, Pres. Ex. 448, R. 2836). The phosgene experiments by Bickenbach under the direction of Brandt were concluded only a few months earlier. It is quite clear that Wirth would not have suggested experiments on concentration camp inmates unless it was an approved military medical practice.

(2) Malaria and Sea Water Experiments (Indictment, Par. 6 (C) and (G))

The Prosecution relies primarily on the position of the defendant Handloser in connection with the charge of responsibility for the malaria and sea water experiments.

The malaria experiments continued from February 1942 until the Spring of 1945 and over 1,000 inmates were experimented on. (See the brief on Rose). It is not to be expected that such a large series of experiments went unnoticed in higher medical circles. As to the sea water experiments, reference is again made to the statement of Schroeder that Handloser was informed about medical research by the Luftwaffe. (NO-449, supra).

(3) Biological Warfare Experiments

In 1943 biological warfare became a matter of some interest in military circles in Germany. The defendant Blome was commissioned by Reichsmarschall Goering with the task of research in this field. (NO-675, Pros. Ex. 37, R. 142). A special committee under the name "Blitzarbeiter" was founded to investigate matters concerning biological warfare. Stabsarzt Professor Klieve who was an officer of the Army Medical Inspectorate and a subordinate of Handloser, was a prominent member of this committee. (NO-1308, Pros. Ex. 325, R. 1482; Handloser, R. 2961). Handloser conferred with Blome concerning biological warfare. (Handloser, R. 2965).

In a meeting of the "Blitzarbeiter" Committee on 4 September 1943, which was attended by Klieve among others, Blome suggested that experiments should be conducted on human beings since it was not known under what conditions inhaled aerosols or dispersed droplets of certain pathogenic germs caused diseases in man. (NO-3108, Pros. Ex. 325, R. 1484). Again in a meeting of 23 February 1944, Blome pointed out the necessity for experiments on human beings and reported that a new biological weapon was to be studied and tested. Field Marshal Keitel had given the permission to build the institute and Himmler and Karl Brandt assured him of their support. Blome also stated

that plague might constitute a serious hazard and accordingly it was necessary to examine the plague vaccine in experiments on human beings. The effects of maximum doses of several poisons were to be tested by experiments on human beings. (NO-1309, Pros. Ex. 326, R. 1487). In its judgement the International Military Tribunal made a finding of fact that Soviet prisoners of war were used in medical experiments concerning biological warfare, which more often than not proved fatal. (International Military Tribunal, Case No. 1, R. 16691)

That Blome actually carried out the proposed experiments with poisons on human beings is proved by a teletype from Sievers to Rudolf Brandt dated August 16, 1944. (NO-641, Pros. Ex. 327, R. 1493). This communication states that Blome wished to report to Himmler concerning poison experiments in amplification of the report of 21 July.

Handloser admits that it was his duty to occupy himself with preventive measures in case of biological warfare. (R. 2962). He obviously was informed of the important work of Blome and his subordinate Klieve in this field. Speeches about the necessary protective and defensive measures were made at the 4th Meeting of Consulting Physicians of the Wehrmacht at Hohenlychen. (NO-1309, Pros. Ex. 326, R. 1491). Handloser was present at this meeting. (Handloser, R. 2940). Moreover, in the report on Klieve's meeting with Blome on 23 February 1944 referred to above, it is stated:

"By request of Field Marshal Keitel the armed forces are not to have a responsible share in the experiments, since experiments will also be conducted on human beings."

It appears from this statement that Field Marshal Keitel, Chief of the High Command of the Wehrmacht, was informed about the systematic experimentation on concentration camp inmates.

In the face of this, it cannot be believed that Handloser as Chief of the Medical Services of the Wehrmacht, and an immediate subordinate of Keitel, was not even better informed.

(4) Gas Oedema Serum Experiments.

Further evidence that experimentation on concentration camp inmates was an accepted and approved practice in the military medical services subordinated to Handloser is found in the proof on the experiments in connection with gas oedema serum.

Handloser testified that gas oedema is a disease resulting from infection of a wound by bacteria. Mortality is very high. The military medical services had a gas oedema serum which was used to combat the infection. It was observed that soldiers treated with this serum sometimes died suddenly after apparent recuperation. This was thought to be caused by the phenol content of the serum. This whole subject was studied by Professor Killion of the Army Medical Inspectorate, a subordinate of Handloser. (Handloser, R.3053).

The affidavit of Dr. Erwin Schuler, alias Ding, who conducted the typhus experiments at Buchenwald states that at a conference at the Military Medical Academy in Berlin at the end of 1942, in which he took part, one of the topics of discussion was the fatality of gas oedema serum on wounded soldiers. The meeting referred to by Schuler in this affidavit is undoubtedly the Second Meeting of the Consulting Physicians of the Wehrmacht held between 30 November and 2 December 1942. The affidavit goes on to state that among the participants in the discussion on gas burn serum were Killion, General Schreiber, Mrugowsky, and a medical officer who was unknown to him. Killion and Mrugowsky gave reports of soldiers who had received the serum in high quantities and hours later, after apparently

having recovered, died suddenly without visible reason. It was expected that the phenol content of the serum brought about the fatal result. In the presence of Killian and Schreiber, Mrupowsky ordered Schuler to take part in the performance of euthanasia with phenol on a concentration camp inmate and to describe the result in detail. Schuler later witnessed the execution of four or five prisoners by the defendant Hoven in the Buchenwald Concentration Camp. According to orders, Schuler reported his findings to Berlin. (NO-257, Pres. Ex. 263, R. 1091).

III. CONCLUSION

Handloser was the highest ranking medical officer in Germany. His power extended to all the medical services of the Armed Forces, including the Waffen SS.

Handloser participated in the conference of 23 December 1941 when it was decided the typhus experiments in Buchenwald would be performed. A subordinate of his attended a preliminary conference on the same subject the same day. Medical officers under the direct command of Handloser were informed of the details of these experiments - Eyer, Schmidt, and Schreiber. Eyer received a report on the first series of experiments and later, accompanied by Schmidt, visited the experimental station. Typhus infected lice as well as vaccines were furnished to the experimental station by an agency directly subordinated to Handloser. Ding reported on the typhus experiments at a meeting of Consulting Physicians called by Handloser. It was made apparent that the experiments had been conducted on concentration camp inmates. An objection was raised to the experiments by one of the doctors. The meeting at which the talk was made was presided over by Schreiber, a high ranking assistant to Handloser. He was connected with similar typhus experiments

performed by Haagen on inmates of the Natzweiler Concentration Camp.

The Army Medical Inspectorate under Handloser used the Buchenwald experimental station's facilities to have yellow fever vaccines tested. The results of these experiments were sent to Dr. Schmidt. A short time later, combined vaccine experiments were conducted at Buchenwald on the suggestion of Handloser. In 1943 and 1944, old blood plasma was tested on inmates of the "Little Camp" at Buchenwald for the Military Medical Academy under Handloser.

The freezing experiments conducted by Rascher and Holzloehner in the Dachau Concentration Camp were known to Handloser. Graemer, a subordinate of Handloser, suggested cooperation with Rascher. Handloser heard a report by Holzloehner on these experiments as did Schreiber. Directives issued by agencies under Handloser utilized the results of these experiments.

Handloser heard a report on the sulfanilamide experiments by Gebhardt and Fischer at a meeting presided over by him. The report included details about artificial infection and fatalities. It was made clear that concentration camp inmates were used. Experiments took place after this meeting.

Dohmen, a subordinate of Handloser, carried out epidemic jaundice experiments on inmates of the Sachsenhausen Concentration Camp. Handloser was also connected with similar experiments by Haagen in Natzweiler and Dresel in Buchenwald.

Wirth, a subordinate of Handloser, was informed about the gas experiments of Bickenbach at Strassbourg on Russian prisoners of war. He inspected the experimental station. Wirth also suggested gas experiments to Karl Brandt in connection with the decontamination of water.

Handloser was connected with the "Elitzarbeiter" Committee with sponsored experiments on human beings with biological warfare agents and poisons. And, finally, Schreiber aided and abetted murderous experiments with Phenol in connection with gas oedema serum, together with another subordinate of Handloser.

The Prosecution submits that the evidence proves that Handloser was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experimentation on human subjects without their consent, in the course of which experiments murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts were committed, and that his guilt has been established under Counts I, II, and III of the indictment.

M I L I T A R Y T R I B U N A L N O. I

CASE NO. 1

CLOSING BRIEF FOR
THE UNITED STATES OF AMERICA
AGAINST
WALDEMAR HOVEN

James M. McManey
Alexander G. Hardy
Arnold Horlik-Hochwald
Esther Jane Johnson

For:

Telford Taylor
Brigadier General, U.S.A.,
Chief of Counsel for War Crimes

Nurnberg,
16 June 1947.



INTRODUCTION

It is alleged in essence under Count One of the Indictment that the defendant Waldemar Hoven conspired and agreed with others, pursuant to a common design to perform medical experiments on involuntary human subjects; under Counts Two and Three (War Crimes and Crimes against Humanity, respectively), that he was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experimentation on involuntary human subjects, and in the execution of the so-called "euthanasia" program; and under Count Four, that he was a member, after 1 September 1939, of the SS, an organization declared to be criminal by the International Military Tribunal.

The defendant Hoven is charged with special responsibility in connection with the typhus and other vaccine experiments as set forth in Paragraph 6 (J) of the Indictment, and with participation in the so-called "euthanasia" program as set forth in Paragraph 9. The proof has also shown that he participated in gas oedema serum experiments.

I. POSITIONS OF RESPONSIBILITY

The defendant Hoven joined the SS in 1934 and the Nazi Party in 1937. When war broke out, he joined the Waffen-SS. In this unit he attained the rank of Hauptsturmfuehrer (Captain). After having completed his basic training in the Waffen-SS, Hoven became assistant medical officer in the SS hospital in the Buchenwald Concentration Camp and held this position until 1941. (NO-429, Pros. Ex. 281, R.1078; NO-591, Pros. Ex. 35, R. 140). In January of that year he became second camp doctor of Buchenwald. (Hoven R. 9765) and, at least as early as June 1942, Chief camp physician. (Hoven R. 9767). He remained in this position until September 1943 when he was arrested on the order of the SS Police Court in Kassel. (NO-429 and NO-591, supra). Hoven was arrested for

having murdered, an SS, non-commissioned officer who was a dangerous witness against Koch, the camp commander of Buchenwald.

(Kogen, R. 1183-4). There is some evidence that Hoven was chief camp physician before June 1942 and as early as the spring of 1941. (Roemhild, R. 1631). A letter of Mennecke, dated 25 November 1941) speaks of Hoven as the camp physician. (NO-907, Pros. Ex. 412, R. 1746). In any event, even before Hoven had been appointed officially camp physician, he had decisive influence in the camp hospital. The witness Roemhild testified that from the summer of 1941 on, Hoven played "the leading part" in the hospital. (R.1663).

When Dr. Ding-Schuler (hereafter referred to as Ding) started his criminal typhus and other vaccine experiments in the Buchenwald Concentration Camp in the beginning of 1942, Hoven supervised the experimental station in the absence of Ding. On 9 January 1943 this experimental station became, by order of the defendant Genzken, the "Department for Typhus and Virus Research of the Waffen-SS". Ding was the head of this department and the defendant Hoven was officially charged as his deputy. (NO-265, Pros. Ex. 287, R.1127, hereafter referred to as the Ding Diary).

These then were the positions of responsibility of Hoven: Hauptsturmfuehrer in the Waffen-SS, First Physician of the Buchenwald Concentration Camp, and Deputy for Dr. Ding in the Department for Typhus and Virus Research.

II. PERSONAL PARTICIPATION IN CRIMINAL ACTIVITIES

A. Typhus and other vaccine experiments (Indictment, Par.6 (J))

For a full description of the criminal nature of these experiments, reference should be made to the Prosecution brief on the defendant Mrugowsky.

Following the invasion of Russia in 1941, typhus became a serious threat to the German Wehrmacht. The use of typhus vaccine was one of the primary methods in meeting this threat.

On 29 December 1941 a conference was held between the defendant Handloser, as Army Medical Inspector; Conti of the Reich Ministry of Interior; Reiter of the Public Health Department; Gildemeister of the Robert Koch Institute; and the defendant Mrugowsky as Chief of the Hygiene Institute of the Waffen-SS. At this conference it was decided that typhus vaccines were to be tested on human beings to determine their effectiveness. The concentration camp Buchenwald was chosen for testing the typhus vaccines. Ding was charged with the execution of the experiments. (Ding Diary).

The experiments were originally conducted in Blocks 44 and 49 of the Buchenwald concentration camp. Later the experimental station was transferred to Block 46 of the camp and, in 1943 Block 50 was attached to the experimental station. This block was used for production of the typhus vaccine. Hoven was the deputy of Ding in both Blocks. (Kogon, R. 1155-6, Ding Diary). The entry of 17 March 1942 in Ding's Diary proves that Hoven deputized for Ding in the absence of the latter. It reads: "SS Hauptsturmfuehrer Dr. Ding fell sick with spotted fever (typhus) and lies at the hospital in Berlin. SS Hauptsturmfuehrer Hoven, station medical officer of the Waffen SS in Weimar, supervises in the meantime the stations (Block 44 and 49)." (NO-265; supra). The witness Kogon stated that Hoven had a double function in the Buchenwald concentration camp. He was camp physician and he was the deputy of Dr. Ding-Schuler for the experimental station 46. (R.1161). In his capacity as camp physician Hoven played the decisive part in the selection of the experimental persons for the typhus experiments. Ding requested the camp physician to make arrangements for the selection of the necessary number of inmates. The camp physician forwarded this request to the camp administration. (Kogon, R. 1166, 1179-80). Hoven admitted as much in his affidavit.

He said:

"The selection of inmates to be used for the purposes of medical experiments in Block 46 by the 'Institute for Spotted Fever and Virus Research' was as follows: Whenever Dr. DING needed human beings for his work a request was made to the office of the Camp Commandant and referred to me for action. Usually a man named SCHÖBER, an SS Hauptsturmführer, notified me to select the necessary number of prisoners for these purposes. In accordance with this request I selected various inmates, at random, from the roster of the camp. They were placed on a list over my signature and returned to SCHÖBER, who often removed certain names from the list for political reasons. In the event that particular prisoners were removed from the list I was requested to select substitutes in order to provide Dr. Ding with the desired number of victims. After I returned completed list to Schober it was given to Dr. Ding for approval. He made a final check to ascertain, from a medical point of view, the physical condition of the selected inmates and to determine whether or not they met with his requirements." (NO-429, supra, emphasis supplied).

This evidence is corroborated by the testimony of witness Roemhild (R. 1633) and the affidavit of the late Ding himself (NO-257, Pros. Ex. 283, R. 1091).

As to his position as deputy of Ding, Hoven stated in his affidavit:

"Inasmuch as I was constantly associated with Dr. Ding at Buchenwald we became very friendly. I frequently discussed matters with Ding and visited his experimental station from time to time. As a matter of fact, Dr. Ding had to go to Berlin for discussions with Dr. Krugowsky and others, nearly 3 days out of every two weeks, and on such occasions I was in charge of the Spotted Fever Institute. However, when Ding went to Berlin the experiments were discontinued until he returned." (NO-429, supra, emphasis supplied).

Ding, on the other hand, described Hoven's function as follows:

"Hoven's share in Block 46.

In Feb. 1942 the order to conduct Typhus experiments came through. I was chosen to carry out these experiments. Since I had my office in Berlin, a deputy had to be appointed for my absence in Buchenwald. For this post the Reichsarzt SS Dr. Grawitz in agreement with the leading doctor of the Concentration Camps Lolling named the SS 1st Dr. Hoven as station doctor at Buchenwald.

My presence in Buchenwald lasting always only a few days while the time of the experiments and the length of the Typhus epidemic lasted about ten weeks.

Dr. Hoven had the order to get the prisoners (professional criminals sentenced to death), that have been released for the experiments from the Reich Security office and the Chief of the Concentration Camps, ready for the vaccination or the infection after an examination of their physical fitness.

As deputy he often ordered Dr. Plaza to take over the guard of Block 46. Dr. Plaza in addition continued to work independently under Cape Dietzsch.

** **

Hoven worked as my deputy until my permanent entrance in Buchenwald in August 1943. In September he was arrested.

In the year 1942 he had to work a lot by himself since I contracted typhus and after that was sent to a resthome. Right after that I had a detail to the Pasteur Institution in Paris. During this time the Sick-reports carried the signature of Hoven or Plaza. (NO-257, Pros. Ex. 283, R. 1091).

During the years 1942 and 1943 Ding was frequently absent from Buchenwald. While Hoven was not in the position to start a new series of experiments on his own initiative, he was responsible for the selection and supervision of the experimental subjects themselves, of the reports on the fever curves, diary notes and report sheets. He had to supervise the keeping of an orderly record of these experiments.

(Kogon, R. 1179-80). This evidence is fully corroborated by the testimony of the witness Kirchheimer. (R.1324-41).

Kirchheimer further stated that in the absence of Ding the capo of the experimental station, Dietzsch, received orders for the execution of the experiments from Hoven (R.1344) and that in the absence of Ding, Hoven was considered commanding officer of Block 46. (R.1345). Even the defense witnesses for Hoven admitted that in the absence of Ding, Hoven deputized for the latter. (Pieck, R. 4753, Dorp, R. 8631). The witness Roemhild testified that Hoven collaborated with Ding and represented him while the latter was absent. (R. 1633).

Ding was at the Pasteur Institute in Paris from 10 September to 10 October, 1942. (Ding Diary). The affidavit of Ding quoted above proves that from 17 March until he went to Paris, he was convalescing from typhus. Thus, Ding was absent

from the Buchenwald Concentration Camp from 17 March until 10 October 1942. During this time experimental series I. on 145 subjects was concluded, which resulted in 5 fatalities. (Ding Diary entry of 19 April). Between 19 August and 4 September, 1942, Research Series II was started by "execution of vaccination for the immunization from typhus" on 40 experimental subjects. These subjects were artificially infected on 15 October. Although the artificial infection was carried out at a time when Ding may already have returned to Buchenwald, the experimental series actually was started when the defendant Hoven was in sole charge of the experimental station. (Ding Diary, entries of 19 August and 4 September 1942). Four persons died as a result of this experimental series. (Ding Diary, entry of 20 November 1942).

On 9 January 1943 Hoven, in addition to his duties as deputy of Ding, in the experimental Block 46, was officially charged by the defendant Genzken with assisting Ding in the supervision of vaccine production in Block 50. (Ding Diary). Hoven would have the Tribunal find that, as deputy to Ding, he was solely concerned with vaccine production. This has been disproved by the testimony of Kogon, Roemhild, Kirchheimer, and Pleck and the documentary evidence, as set forth above and below. Moreover, vaccine production was not even started until 16 August 1943 and Hoven was arrested in September. (NO-571, Pros. Ex. 285, R. 1106). Ding's work report for the year 1943 reveals that he was absent from the Buchenwald concentration camp from 28 February to 6 March, from 29 April to 1 May, and from 25 June to 15 August. The same document shows that between 18 February and 6 March, two experimental series were in progress in the experimental station, first, the experiments with yellow fever vaccine carried out on 435 experimental persons which were conducted between 10 January and 17 May, and secondly, experiments with typhus

vaccines (Riga and Zurich) carried out on 40 experimental subjects between 25 January and 28 April. (NO-571, supra). During Ding's absence from 27 April to 1 May one of the most vicious experiments ever conducted in the typhus experimental station was in full progress, the experiments to determine the effect of the drugs Acridin Granulate and Rutenol on typhus. These experiments were carried out between 28 April and 1 June 1943. Of the total of 39 inmates used, 21 died. (Ding Diary). During the absence of Ding, who was on sick leave from 25 June to 15 August 1943 another two experimental series were in progress. Experiments with the typhus vaccines "Asid", "Asid Adsorbat" and "Weigl" were carried out on 70 experimental persons from 28 May to 4 September 1943 and experiments with the drug Othromin were carried out on 40 experimental persons. (NO-571, supra). The experiments with Asid, Asid, Adsorbat and Weigl resulted in 53 deaths out of 70 persons experimented on. (Ding Diary).

Hoven deputized for Ding up until Ding's permanent presence in the Buchenwald concentration camp in August 1943. (NO-257, supra). He was arrested on 12 September of that year. (Dorn, R. 8576). The evidence outlined above proves that Hoven's activities as deputy to Ding concerned primarily Ding's experimental work. The testimony of the defense witness Dorn to the contrary is thus entirely incorrect on this point. (Dorn, R. 8632).

The proof has further shown that Hoven not only supervised the experimental station in Ding's absence, but that he also actively participated in the experiments by infecting the experimental subjects. On 30 November 1942 an attempt to infect experimental subjects artificially with typhus infected lice was made. (Kogon, R. 1020-1; Kirchheimer, R. 1326; Ding Diary). As the cages in which the lice were kept had become leaky during the transport and constituted a danger of a

typhus epidemic in the camp, the cages were burned. (Ding Diary). A second shipment of typhus infected lice was brought to Buchenwald on 3 December 1942 for the same purpose by a Wehrmacht officer. (Ding Diary). Fifteen experimental subjects were infected in the presence of the defendant Hoven and the Wehrmacht officer who had brought the lice. (Kirchheimer, R. 1326 and Dorn R. 8578). The defense witness Dorn testified that Hoven induced the Wehrmacht officer to leave Block 46 and the camp before the experiment was finished in order to have the opportunity to destroy the lice which were dangerous for the SS members in the camp because of possible infection. (R. 5878). In fact, however, the infection experiments continued even after the Wehrmacht officer had left and approximately 9 of the 15 inmates were then infected. (Kirchheimer, R. 1341). As Kirchheimer was a male nurse in the experimental stations and was personally present during this experiment (Kirchheimer, R. 1359), whereas Dorn's knowledge is derived from hearsay and based on assumptions, (Dorn, R. 8577-8, 8628-30), Kirchheimer's testimony must be regarded as more reliable. That Hoven was in any event present during the experiment is proved by the testimony of both witnesses. (Kirchheimer, R. 1326 and Dorn, R. 8629).

This incident proves not only Hoven's active participation in the typhus experiments, but also that he had the power to issue orders in experimental Block 46 even at times when Ding was present in the camp.

Hoven's statement that he never performed Typhus infections (R. 9781) was proved to be false by the testimony of the witness Leeuwarden before the Dutch Bureau for the Investigation of War Crimes in Amsterdam. Leeuwarden stated that he, together with other inmates, was injected by Hoven in Block 46 with typhus serum. Six weeks later they received another injection from Hoven and his assistant. A few days

later, all experimental subjects fell very seriously ill with typhus. (NO-1063, Pros. Ex. 328, R. 1498). This statement proves beyond any doubt that Hoven himself performed some of the experiments. Leeuwarden also testified on this subject before the commissioner of the Tribunal, who put interrogatories to him which were prepared by Hoven's Defense Counsel. Leeuwarden stated with certainty that he had been infected by Hoven. It was the defendant Hoven who gave him the injection and visited the experimental subjects in Block 46 a few days later in order to ascertain whether they had already contracted typhus. (See also the statement of Vondeling, NO-1063, supra, and his answers to interrogatories).

In the light of the overwhelming evidence, the self-serving statements of Hoven that he represented Ding only in Block 50 and had nothing to do with the experiments themselves must be viewed as entirely incredible. During the period of Hoven's activity in the experimental station, no less than 100 inmates were killed as a result of the typhus experiments.

B. Euthanasia Program - Action 14 f 13

For a detailed description of the so-called euthanasia program, which was carried out in concentration camps under the code name "Action 14 f 13", see the Prosecution's brief against the defendant Karl Brandt.

On 1 September 1939, the defendant Karl Brandt and Reichsleiter Bouhler, the chief of the defendant Brack, were charged by Hitler with the execution of the euthanasia program, i.e., the extermination of the insane and incurable. (630-PS, Pros. Ex. 330, R. 1516). The real reason behind this order of Hitler's was to eliminate "useless eaters" and other undesirable persons who were considered of no value to the German war effort. (See Prosecution's brief on the defendant Karl Brandt).

In early summer 1940, the euthanasia program was extended to include thousands of inmates of concentration camps. The camp physicians made a preliminary selection of inmates considered eligible for extermination and this group was then "examined" by a commission of experts from the euthanasia program which toured the various concentration camps. Questionnaires were filled out on the inmates selected and they were later transferred to euthanasia stations, where they were killed. (Mennecke, R. 1882-3). Non-German nationals and Jews, who were inmates of concentration camps, were subjected to this program in extensive numbers. (Mennecke, R. 1887). (Dr. Muthig, who was camp physician of the Dachau Concentration Camp, and therefore in a position corresponding to that of the defendant Hoven in Buchenwald, stated in his affidavit that the expert commission selected inmates who were unable to work for extermination by gas in autumn 1941. (NO-2799, Pros. Ex. 497, R. 7710)). The Buchenwald Concentration Camp was visited by such a commission

of experts for the same purpose in June 1941. This visit was made for the express purpose of assigning inmates for killing in the so-called euthanasia stations, which were in fact nothing else than extermination stations. (NO-3010, Pres. Ex. 503, R. 7734). This statement of Dr. Gorgasz, who was a member of this doctor's commission, is corroborated by the witness Roemhild, who testified that in summer 1941 a delegation came to the Buchenwald Concentration Camp and selected inmates who were then sent by transport to an unknown destination. A few hours after their departure, the personal belongings of these inmates were sent back to the camp so that it was obvious that these persons had been exterminated. Roemhild learned later that these inmates had been killed by gas. (R. 1634). He testified further that in autumn 1941 Jewish inmates of the Buchenwald Concentration Camp were medically examined by the camp physicians, one of whom was the defendant Hoven. Those Jews who were unfit for work were sorted out by the camp physicians and sent in three or four transports to the Euthanasia Station Buernberg and killed there by gas. About 600 inmates were killed on this occasion. Falsified death reports were made out stating that these inmates had died a natural death. The victims of this action were inmates of every nationality -- Germans, Austrians, Poles, and Czechs -- and most of them were not ill at all. (Roemhild, R. 1636-7, 1663).

The function of the camp physicians in the euthanasia program is set forth in a letter from the Inspectorate of Concentration Camps to the concentration camps, including Buchenwald. It stated in part as follows:

"As the camp commandants of the concentration camps Dachau, Sachsenhausen, Buchenwald, Mauthausen and Auschwitz were informed in the correspondence mentioned above (12 Nov. 1941), the Doctors'-Commission will visit the above named concentration camps for the Selection of prisoners in the near future.

"The first half of January 1942 is designated for this examination for the concentration camps Flossenburg, Gross-Rosen, Neuengamm, Niederhagen.

"Since the available doctors have a very heavy responsibility, the examinations in the concentration camps must be shortened as much as possible.

"In the enclosure a sample of the questionnaire will be sent as a copy for the preparatory work. These forms are to be mimeographed and to be filled out. The answering of single questions are taken up in this sample which are underlined in red and only these questions have to be answered. Relative to these single questions, the following explanation is given:

"The question 'physically incurable ailment' is not only to be answered with yes or no if possible, but to be answered with a short summary of the diagnosis.

"In addition, also the question of war injuries is to be determined because this guarantees a decided alleviation in the examination work of the Doctors' Commission. If the space under the question of 'delinquency' and 'previous convictions' is not sufficient, the answer is to be put on the back side of the questionnaire as is designated in the sample. Individual punishments are not to be enumerated only these regarding main convictions are to be briefly summarized, the single delinquencies are only to be briefly mentioned. Those prisoners who come into question for examination are evident from the designated questions in the questionnaire.

"All documents and hospital reports on hand are to be placed at the disposal of the Commission upon request for examination". (1151-PS, Pros. Ex. 411, R. 1725).

The camp physician made up a list of the inmates eligible for extermination and filled out certain preliminary data in the questionnaire. This was the group which the doctor's commission examined when they visited the camp.

From a memorandum of 26 March 1942 from the WVHA, it is proved that the basis of selection was inability to work. It said:

"Through the report of a camp commander it became known that 42 of the 51 inmates selected for special treatment 14 f 13 became 'fit to work again' after some time

which made their transfer for special treatment unnecessary. This shows that the selection of these inmates is not being effected in compliance with the rules laid down. Only those inmates who correspond to the conditions laid down, and, this is the most important thing, who are no longer fit to work, are to be brought before the examining commission." (1151-PS, supra).

A further memorandum of 27 April 1943 from the WVHA to all concentration camps proves that before that date the selection of inmates for euthanasia was not limited to alleged insane persons, but covered any one unfit for work. It said:

"The Reichsfuehrer-SS and Chief of the German Police upon demonstration has decreed that in the future only insane prisoners can be selected for the action 14 f 13 by the medical commissioners appointed for that purpose.

All other prisoners unfit for work (persons suffering from Tuberculosis, bedridden invalids, etc.) are absolutely to be excluded from this action. Bed-ridden prisoners are to be given suitable work, which can also be done in bed." (1151-PS, supra).

The witness Mennecke, who was himself a member of a doctors' commission which toured concentration camps in order to examine inmates for killing in euthanasia stations, testified that he visited the Buchenwald Concentration Camp twice, first in autumn 1940 and the second time in November 1941. (R. 1883). When the experts' commission visited the concentration camps, the personal data of the inmates who were presented to this commission were already filled out in the questionnaires. This had been done by the office of the camp physician. The experts consulted with the camp physicians who had drawn up the list of inmates who were to be examined. It was necessary that the inmates eligible for extermination be selected in the first instance by the camp physician as the doctors' commission was in the camps only a few days and it was impossible for them to perform their function except by working on the group of inmates presented to them. Not all of

the inmates selected by the camp physician for euthanasia were insane. Inmates who were physically unable to work and who suffered from illnesses, such as tuberculosis, were included. (Mennecke, R. 1888-9).

A special regulation existed as to the examination of Jews. Jews were not medically examined. It was sufficient to complete the questionnaires about them by incorporating therein the reasons for their arrest. (Mennecke, R. 1891-3). Jews who were included in these extermination actions were mostly physically and mentally healthy. Those Jews who were presented to the doctors' commission had already been selected previously by the camp physicians. (Mennecke, R. 1894). For a list of Jews selected in Buchenwald for extermination, see the pictures of the Jews with Mennecke's handwritten comments on the back. (NO-3060, Pros. Ex. 567, R. 10704; NO-2436, Pros. Ex. 568, R. 10705). Mennecke remembered that it was the defendant Hoven in the Concentration Camp Buchenwald who had the inmates presented to him for examination. Hoven was one of the leading personalities in the camp and, in reality, the camp physician. (Mennecke, R. 1895). Mennecke's testimony is corroborated by his letter of 25 November 1941 to his wife, which described his activities in Buchenwald:

.... "The first working day at Buchenwald is over. At 8.30 this morning we were out there. At first I introduced myself to the authoritative leaders. The deputy of the camp-commander is SS-Hauptsturmfuehrer Florstaedt, camp physician is SS-Obersturmfuehrer Dr. Hoven. At first another 40 reports of a first portion of arians had to be completed by filling them out, on which the two other colleagues worked already yesterday. Out of these 40 I worked up about 15. After this whole portion had been worked up, Schmelenberg left, in order to go to Dresden and not to return until our work here is done. Following this, the "examination" of the patients was carried out, i.e. a presentation of the individuals and a comparison with the entries taken from the files. We did not finish this work until noon, because the other two colleagues worked only theoretically yesterday, so that I had to "re-examine" those, whom Schmelenbach (and I myself this morning)

n had prepared and Mueller his persons. At 12 o'clock we stopped for lunch Afterwards we continued our examination until about 16 o'clock, I myself examined 105 patients, Mueller 78 patients, so that finally a total of 183 reports were ready as a first portion. As second portion a total of 1200 Jews followed, all of whom do not need to be "examined", but where it is sufficient, to take the reasons for their arrest from the files (often very voluminous!) and to transfer it to the reports. Therefore it is merely a theoretical work, which will certainly keep us busy until next Monday inclusive, perhaps even longer. From this second portion (Jews) we completed today: I myself 17, Mueller 15. At 17.00 sharply "we threw away the trowel" and went for supper...

Exactly as the day I described above, the following

days will pass - with exactly the same program and with the same work. After the Jews, another 300 Aryans followed as a third portion, who again will have to be "examined". Therefore we are busy here until the end of the week. Then on Saturday, the 6 Dec. we shall go home " (NO-907, Pros. Ex. 412, R. 1746).

Another letter of Mennecke, dated 12 January 1942, reveals that also in other concentration camps the doctors' commission worked closely together with the camp physician. In the Ravensbruck Concentration Camp it was the camp physician, Dr. Schidlowsky, who was contacted by Mennecke for the purpose of collaboration in the Euthanasia program. (NO-907, Pros. Ex. 412, R. 1748).

The defendant Hoven tried to dissociate himself from Action 14 f 13 by saying that the camp commander of the Buchenwald Concentration Camp, Koch, had ordered that all Jews should be included in Action 14 f 13 so that no preliminary examination on the part of the camp doctors had to be carried out and that there was no necessity that a special list of Jews should be made up by these doctors. This is no defense. Hoven knew of the action and took an active part in it. Moreover, from the testimony of Mennecke and from his letters, it is apparent that during the visit of the doctors' commission in November 1941, not only Jews were presented to the experts, but also 483 Aryans. (NO-907, supra; Mennecke, R. 1945.

That Hoven took part in the selection of the concentration camp inmates presented to this doctors' commission is further proved by the testimony of the witness Roemhild. (R. 1636). The testimony of the witness Kogon proves that there was an exchange of correspondence between the defendant Hoven and Dr. Eberle, the Chief Physician of the Bernburg Euthanasia Station, which clearly shows Hoven's connection with Action 14 f 13. (R. 1212).

Moreover, Hoven admitted his participation in the euthanasia program in his pre-trial affidavit. He said:

"9. I became aware in 1941 that the so-called "Euthanasia" program for the extermination of the mentally and physically deficient was being carried out in Germany. At that time the Camp Commander, Koch, called all the important SS officials of the camp together and informed them that he had received a secret order from Himmler to the effect that all mentally and physically deficient inmates of the Camp should be killed. The Camp Commander stated that Higher Authorities from Berlin ordered that all Jewish inmates of the Buchenwald Concentration Camp should be included in this extermination program. In accordance with these orders 300 to 400 Jewish prisoners of different nationalities were sent to the "Euthanasia Station" at Bernburg for extermination. A few days later I received a list of the names of those Jews who were exterminated at Bernburg from the Camp Commander and was ordered to issue falsified statements of death. I obeyed this order. This particular action was executed under the code name "14 f 13". I visited Bernburg on one occasion to arrange for the cremation of two inmates who died in the Wernigerode Branch (Aussenkommando Wernigerode) of the Buchenwald Concentration Camp." (NO-429, Pros. Ex. 281, R. 1078).

Hoven also participated in the large scale extermination of inmates suffering from tuberculosis in the Buchenwald Concentration Camp itself. Approximately 500 inmates who were supposedly suffering from tuberculosis were killed in July 1941 in the camp hospital by injections with evipan when they reported for treatment. These killings were conducted by the physician Dr. Eisen, who was Hoven's subordinate. Most of the victims of this action were by no means incurably ill, but only undernourished and could have been saved under better living conditions. (Roemhild, R. 1638).

Roemhild testified on cross-examination that Hoven probably could not have prevented the extermination of the tubercular inmates: (R. 1664). This, however, is not significant. No more could the killers in the extermination chambers of Auschwitz have prevented the killing of Jews. Hoven's participation nonetheless makes him a principal in the crime of murder. And in a larger sense, it was the thousands of "Hovens" all over Germany who did in fact make these crimes possible. Roemhild's testimony concerning the extermination of the tubercular inmates is corroborated by the testimony of the witness Kogon, who stated that some times a whole ward was cleared in this way to make room in the overcrowded hospital. (R. 1214). Dr. Horn, witness for the defendant Hoven, admitted that there was one block in the camp hospital which he was forbidden to enter. It was known in the camp that in this block invalid inmates were killed. The inmates blamed Hoven as the person responsible for these killings which were carried out in the hospital. (Horn, R. 5286). Hoven himself used the word "euthanasia" in speaking to Horn and mentioned in this connection that the camp commander had approved the policy of killing seriously ill patients. (Horn, R. 5291).

In addition to his participation in the formal euthanasia program and the murder of tubercular inmates, Hoven personally murdered ill and other inmates on his own initiative. This was a common practice of camp doctors. (cf. case against Oberhouser; also Affidavit of Rosenthal, NO-858, Pres. Ex. 223, R. 889). Hoven admitted that approximately 60 inmates were killed with phenol or evipan injections either by himself or under his supervision. (R. 9851).

In his affidavit he said:

"10. In the Camp we had a great many prisoners who were jealous of the positions held by a certain few of the inmates, that is, some of the political prisoners held key-positions and were able to get better

living conditions than the average. Hence, many of the prisoners envied these positions and made every effort to discredit the men who held the key-positions. Such traitors actions became known thru the "grapevine" to the men in the key-positions and then such traitors were immediately killed. In each case I was later notified in order to make out the death statements of the prisoners killed. These statements did not indicate the actual cause of death, but were made out to indicate that the prisoner died of natural causes.

11. In some instances I supervised the killing of those unworthy inmates by injections of phenol at the request of the inmates. These killings took place in the camp hospital and I was assisted by several inmates. On one occasion Dr. Ding came to the hospital to witness such killings with phenol and said that I was not doing it correctly, therefore he performed some of the injections himself. At that time three inmates were killed with phenol injections and they died within a minute.

12. The total number of traitors killed was about 150, of whom 60 were killed by phenol injections, either by myself or under my supervision in the camp hospital, and the rest were killed by various means, such as beatings, by the inmates."(NO-429)

He tried to justify these killings by stating that these inmates were informers, spies and stool pigeons of the SS and therefore had to be exterminated. He said that if they had been permitted to carry on with their activities, the illegal camp management would have been wiped out and the criminal inmates in the camp would have gained the upper hand. Hoven's attempt at justification for the killing of inmates of concentration camps is, of course, no defense. It may well be true that Hoven sympathized and even collaborated with the illegal camp management. It may also be true that some of his victims may have been killed by him on the basis of suggestions put forward by this illegal camp management. But it goes without saying that these political prisoners, who instigated the murder of their opponents, were in no position to judge whether it was really necessary to kill them for the sake of the camp community. They only judged this emergency from their own point of view, i.e., from the point of view of the benefit of themselves. Hoven himself had no judgment at all

in this respect and simply made himself the willing and bought tool of a small clique in the camp, who undoubtedly often tried to eliminate not only persons whose activities were considered detrimental to the well being of their fellow inmates, but also personal opponents and enemies. That Hoven was corrupted by the inmates and paid for his murders is proved by the testimony of several witnesses.

Kogon testified:

"I can only conclude that both motives, the political motive and the motive of corruption, were active in the case of Dr. Hoven. If Dr. Hoven expressed any desire -- and he expressed many desires -- then these wishes were always filled."
(R. 1213)

"He himself expressed many wishes constantly and all possible advantages were given him by such people whom he had saved." (R. 1214).

Kirchheimer testified to the same effect, (R.1346).

The defense witness Pieck painted pictures for Hoven and his family and the defense witness Horn in his affidavit stated that Hoven was very corrupt. The prisoners knew it and they corrupted him in every possible manner and made him gifts of furniture, underwear and food. There were periods in which complete workshops were erected for Hoven in which thirty or more inmates were working. (R. 4051).

Pieter Schalker testified before the Dutch Bureau for the Investigation of War Crimes in Amsterdam that Hoven played an exceptionally evil role and had innumerable deaths on his conscience owing to completely inadequate medical attention. In later years, when it became obvious that Germany would be defeated, he changed his attitude towards the inmates. (NO-1063, Pros. Ex. 328, R. 1498). When Schalker was interrogated by the commissioner of the Tribunal on the motion of defense counsel, he amplified his statement by saying that Hoven stole the food which was furnished for the experimental subjects in Block 46 and also obtained other

items such as shoes, toys, and women's clothing.

The testimony of the affiant Ackermann, who was an inmate in the pathological department under Hoven, proves that Hoven participated in the customary brutal crimes in concentration camps. He said:

"Dr. Hoven stood once together with me at the window of the pathological section and pointed to a prisoner not known to me who crossed the place where the roll calls were held. Dr. Hoven told me: 'I want to see the skull of this prisoner on my writing desk by tomorrow evening. The prisoner was ordered to report to the medical section, after the physician had noted down the number of the prisoner. The corpse was delivered on the same day to the dissection room. The post-mortem examination showed that the prisoner had been killed by injections. The skull was prepared as ordered and delivered to Dr. Hoven.'" (NO-2631, Pros. Ex. 522, R. 9955).

Hoven also approved the beating of concentration camp inmates. (NO-2313, Pros. Ex. 523, R. 9961; NO-2312, Pros. Ex. 524, R. 9961). One of these inmates died.

On 20 August 1942, Hoven suggested to the camp commander of Buchenwald that the reporting of deaths of Russian political prisoners be discontinued in order to save paper. He said:

"It is requested to examine whether it is necessary to issue reports of the death of political Russians. According to a direction issued last week, an issue of only one form was required. This may effect a saving of paper, but as political Russians for the greatest number among the dead prisoners at the present time, more time and paper could be saved if these death reports were dropped. Notifications of death could be made as before, as for the Russian prisoners-of-war. (NO-2148, Pros. Ex. 570, R. 10708).

The proof has shown that beside the sixty inmates who were admittedly killed by him, Hoven participated in the killing of many other inmates of the Buchenwald Concentration Camp who suffered from malnutrition and exhaustion. He selected the victims for the transports, who were later killed in the Euthanasia Station Bernburg. His defense that all his activities were done only for the benefit of the political inmates in the concentration camp is clearly ridiculous and

without foundation.

It is interesting to note that Hoven's defense that he killed for idealistic motives is the same he used in the proceeding against him in 1944, only then his alleged idealistic motive was "to prevent a scandal in the interest of the SS and the 'ehrmacht'". (NO-2380, Pros. Ex. 527, R.9970; see also, NO-2366, Pros. Ex. 526, R. 9969).

C. Gas Oedema Serum Experiments

The affidavit of Ding states that in a conference at the Military Medical Academy in Berlin at the end of 1942, in which he took part, one of the topics of discussion was the fatality of gas oedema serum on wounded soldiers. Prof. Killian of the Army Medical Inspectorate, and Mrugowsky gave reports of soldiers who had received gas oedema serum in high quantities and hours later, after apparently having recovered, died suddenly without visible reason. It was expected that the phenol content of the serum brought about the fatal result. Mrugowsky in the presence of Killian and Schreiber, ordered Ding to take part in a euthanasia killing with phenol on a concentration camp inmate and to describe the result in detail. Ding asked the defendant Hoven to notify him when he would perform another euthanasia killing with phenol. Hoven then, on the next evening, invited Ding to come to the hospital and in his presence administered phenol injections to four or five inmates who died instantly. (NO-257, Pros. Ex. 283, R. 1091).

III. General Defenses

Hoven tried to explain the contradictions between his testimony before the Tribunal and his pre-trial affidavit regarding these killings and regarding his position as deputy to Ding; by asserting that this affidavit was executed in the English language and he, not being fully conversant with

this language, misunderstood certain words and was not aware of their real meaning. But such is not the case. Hoven was questioned by the Tribunal at great length about the words contained in the affidavit which he could not translate into German. He listed all the words which he allegedly did not understand and the affidavit itself was reconstructed by deleting from it the words which he allegedly did not understand. But even with these words deleted, the affidavit is perfectly understandable and its meaning is in no way changed. (R. 9815-9820). The German additions "Flockfieber Versuchsstation" and "Flockfieber and Virus Forschung", which were made by Hoven himself, make it clear that Hoven knew that the German word "Flockfieber" meant typhus. (R. 9820-1).

Moreover, he admitted that he knew this affidavit concerned the typhus experimental station. Many changes in the affidavit were made by Hoven himself and every change was marked by him by his initial on the margin. He also marked each page with his initial. (R. 9822-3). This proves beyond any doubt that Hoven paid close attention to the wording of the affidavit, that he considered carefully its language and made all corrections which he felt were necessary in order to make the affidavit complete and correct. He admitted that he was permitted to make all changes and corrections which he desired. (R. 9823). The pre-trial interrogations of Hoven, during one of which the affidavit was signed by him,

(NO-4068, Pros. Ex. 564, R. 10698; NO-4069, Pros. Ex. 565, R. 10698) show clearly that the affidavit was read aloud to Hoven, that several changes were made on his request and that all the details which are the subject of the affidavit were discussed with Hoven and that the affidavit itself is nothing else than a summary of Hoven's own admissions during interrogations. Moreover, Hoven had spent three years in the

United States (NO-591, supra) cf. Hoven, R. 9914), which in itself should be sufficient for a reasonably intelligent person to be conversant enough with the English language to understand a written statement which was read to him and which he read himself carefully before signing it. It is clear that Hoven certainly would not have signed a paper and initialed every change in it if he had, at the same time, not understood other parts.

It must be concluded that the statements in his affidavit are considerably more reliable than his testimony. Moreover, the admissions in the affidavit are supported by the documents and the testimony of witnesses.

In connection with the charge of membership in a criminal organization, as set forth in Count IV of the Indictment, Hoven offers the defense that he was drafted into the SS and that he assumed his positions as camp physician in the Buchenwald concentration camp and Deputy to Ding on the basis of military orders. The International Military Tribunal declared:

"to be criminal within the meaning of the Charter the group composed of those persons who had been officially accepted as members of the SS as enumerated in the preceding paragraph who became or remained members of the organization with knowledge that it was being used for the commission of acts declared criminal by Article 6 of the Charter, or who were personally implicated as members of the organization in the commission of such crimes, excluding, however, those who were drafted into membership by the State in such a way as to give them no choice in the matter, and who had committed no such crimes." (Trial of the Major War Criminals, Page 273, emphasis supplied).

Assuming Hoven was drafted into the Waffen-SS it was clearly done on the basis of the fact that he voluntarily joined the Allgemeine-SS in 1934. (Hoven, R. 9763). Had he not been a member of the Allgemeine-SS, he certainly would have been drafted into a unit of the Wehrmacht. Moreover, there is no showing that he had "no choice in the

matter". But assuming arguendo that he had no choice when drafted into the Waffen-SS, he could be found not guilty under Count IV only if he had committed "no such crimes", namely, War Crimes and Crimes against Humanity. The proof has shown beyond any doubt that he participated in such crimes. His defense, therefore, has no foundation.

IV. CONCLUSION

The defendant Hoven was a member of the Allgemeine and Waffen SS. In the latter he attained the rank of Hauptsturmfuehrer. In his capacity as camp physician of the Buchenwald Concentration Camp and deputy to Ding in the Institute for Typhus and Virus Research of the Waffen-SS, he selected experimental subjects for the typhus and other vaccine experiments. He supervised these experiments during the frequent absences of Ding and performed infection experiments himself. Numerous involuntary experimental subjects died as a result of these experiments.

Hoven participated in the euthanasia program, which was carried out in concentration camps under the code name "Action 14 f 13", by selecting inmates who were to be presented to the experts' commission, by compiling the lists of names of victims who were to be sent to the Bernburg Euthanasia Station for extermination by gas, and by making out falsified death reports. Additionally, he personally murdered scores of inmates by injections of phenol. He had knowledge of and supervised the mass murder of tubercular inmates in Buchenwald. In order to ascertain whether the phenol content was the reason for sudden death resulting from gas oedema serum injections, he killed an additional 4-5 inmates of Buchenwald by injecting with phenol.

The Prosecution submits that the evidence proves that Hoven was a principal in, an accessory to, ordered, abetted, took a consenting part in, and was connected with plans and

enterprises involving medical experimentation on human subjects without their consent, in the course of which experiments murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts were committed, that he participated in the murderous euthanasia program, and that his guilt has been established under Counts One, Two, Three, and Four of the Indictment.

MILITARY TRIBUNAL NO. I

CASE NO. 1

CLOSING BRIEF FOR
THE UNITED STATES OF AMERICA
AGAINST
JOACHIM MUSSOLINI

J. M. McManey
Alexander G. Harby
Arnold Harlik-Helwig
Esther Jane Johnson

for:

Nurnberg,
16 June 1947

Telford Taylor
Brigadier General, U.S.A.,
Chief of Counsel for War Crimes



INTRODUCTION

It is alleged, in essence, under Count I of the Indictment that Joachim Mrugowsky conspired and agreed with others, pursuant to a common design, to perform medical experiments on involuntary human subjects; under Counts II and III (War Crimes and Crimes Against Humanity, respectively), that he was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experimentation on involuntary human subjects; under Count IV, that he was a member, after 1 September 1939, of the SS, an organization declared to be criminal by the International Military Tribunal.

The acts recognized as War Crimes and Crimes Against Humanity are set forth in Paragraphs 1 (b) and (c) of Article II of Control Council Law No. 10. Membership in an organization declared criminal by the International Military Tribunal is defined as a crime in Paragraph 1 (d) of the same Article. The criteria of criminality are set forth in Paragraph 2 of Article II of Control Council Law No. 10.

I. POSITIONS OF RESPONSIBILITY

The defendant Mrugowsky joined the NSDAP in 1930 and the SS in the following year. From 1933 to 1935, he was an active member of the SD. In 1937, he became a hygienist for SS troops, which later came to be known as the Waffen SS. At that time he held the rank of SS-Sturm-bannfuhrer (Major). In the Waffen SS he rose ultimately to the rank of Oberfuhrer (Senior Colonel). (NO-723,

Pros. Ex. 29, R. 131-2). In 1938, Mrugowsky became a member of the SS Medical Office (Sanitaetsamt) in Berlin, which was later attached to the SS Operational Headquarters (SS Fuehrungshauptamt) as Amtsgruppe D. In this capacity, he founded in 1939 the Hygiene Bacteriological Testing Station (Untersuchungsstelle). In 1940, this station was enlarged and named the Hygiene Institute of the Waffen SS. Mrugowsky was chief of this Institute and at the same time chief of Office XVI (Hygiene) of Amtsgruppe D (Medical Service of the Waffen SS) under Genzken. (Mrugowsky, R. 5002-3; NO-416, Pros. Ex. 22, R. 121). All SS physicians, who had bacteriological and hygienic training, were transferred under his command. (Mrugowsky, R. 5020-1). He was the military superior and commander of the Hygiene Institute of the Waffen SS and of all affiliated institutes which developed in the course of the war, with full powers to issue orders. (Mrugowsky, R. 5004). He was in charge of all questions of epidemic control and hygiene in the Waffen SS. (Mrugowsky, R. 5004-6). In September 1943, the Medical Service of the Waffen SS was reorganized. Mrugowsky and the Hygiene Institute, which had been subordinated to Genzken as Chief of the Medical Service of the Waffen SS, was thereafter subordinated to Grawitz as the Reichsarzt SS and Police. Mrugowsky was Chief Hygienist (Office III) under Grawitz. He remained Chief of the Hygiene Institute. His duties were not changed by this reorganization. (Mrugowsky, R. 5009; NO-723 supra; NO-417, Pros. Ex. 23, R. 121). The tasks of the Chief Hygienist were procurement of materials, transfer of personnel, technical use of personnel, and professional instruction. (Mrugowsky, R. 5017).

These, then, were the positions of responsibility of the defendant Mrugowsky: Oberfuehrer (Senior Colonel) in the Waffen SS, Chief of the Hygiene Institute of the Waffen SS, Chief of Office XVI of the Medical Service of the Waffen SS (Amtsgruppe D) of the SS Operational Headquarters and Chief of Office III and Chief Hygienist under the Reichsarzt SS and Police.

II. PERSONAL PARTICIPATION IN CRIMINAL EXPERIMENTS

The proof has clearly shown that Mrugowsky personally participated in experimentation on human beings without their consent as charged in the Indictment.

Mrugowsky is charged with special responsibility for, and participation in, the high altitude, freezing, malaria, sulfanilamide, sea water, sterilization, typhus, poison, epidemic jaundice, and incendiary bomb experiments. In order to simplify the issue, the Prosecution withdraws the charge of participation in the high altitude, sea water, and sterilization experiments.

A. EXPERIMENTS IN THE BUCHENWALD CONCENTRATION CAMP

(1) Typhus and Other Vaccine Experiments (Indictment, Par. 6 (J))

The attack against Russia in 1941 gave rise to many military medical problems, not the least of which was typhus. The disease reached serious proportions in the fall of 1941, and typhus vaccines were so scarce that only doctors, nurses, and other medical personnel in exposed positions, could be given inoculations. (Schmidt, R. 3160-1).

One of the most important problems with respect to the increased production of typhus vaccines was the

effectiveness of the so-called Cox-Haagen-Gildemeister vaccine, which was produced from egg-yolk cultures. The effective Weigl vaccine, produced from the intestines of lice, was available, but its manufacture was expensive and complicated. The egg-yolk vaccine was relatively simple to produce but its protective qualities were not regarded as having been sufficiently proved. (NO-732, Pros. Ex. 451, R. 3060).

The entry for 29 December 1941 in the Ding diary proves that a conference was held on that date between Handloser, as Army Medical Inspector; Conti, of the Ministry of Interior; Reiter, of the Public Health Department; Gildemeister, of the Robert Koch Institute; and Mrugowsky, of the Hygiene Institute of the Waffen SS. (NO-266, Pros. Ex. 287, R. 1134, hereinafter referred to as the "Ding Diary").

At the conference it was decided that the typhus vaccine from egg-yolks was to be tested on human beings to determine its efficacy. On the same day an earlier conference was held which discussed the same problem. It took place at the Reichs Ministry of the Interior, and was attended by Beiber of the Interior; Gildemeister; representatives of the Government General in Occupied Poland; officials of the Behring Works of I. G. Farben, and Oberstabsarzt Scholz, of the Army Medical Inspectorate. The minutes of this conference state that:

"The vaccine which is presently being produced by the Behring Works from chicken eggs shall be tested for its effectiveness in an experiment. For this purpose Dr. Beiber will contact Obersturmfuehrer Dr. Mrugowsky."

Since Mrugowsky was not present at this conference, it is obvious that other conferences took place in which this matter was discussed with him, which is corroborated in the entry of the Ding Diary referred to above.

As a result of the decision reached at these conferences, the experimental station in the Buchenwald concentration camp under SS-Sturmfuhrer, later hauptsturmfuhrer Dr. Ding-Schuler (hereafter referred to as "Ding") was established. (Ding Diary; Kogon, R. 1154). The charts drawn by the defendant Mrugowsky, among other proof, shows that the experimental station in Buchenwald was subordinated to the Hygiene Institute of the Waffen-SS under Mrugowsky from the date of its establishment until the end of the war. (NO-416, Pros. Ex. 22; No-417, Pros. Ex. 23, R. 121).

In the beginning of 1943, the research station in Buchenwald was officially called the "Department for Typhus and Virus Research" of the Hygiene Institute of the Waffen-SS. The experiments were carried out in Block 46, the so-called clinical block, with the exception of a few experiments early in 1942. In the Autumn of 1943 a Vaccine Production Department was established in Block 50. Both Blocks 46 and 50 were part of the Department for Typhus and Virus Research. The defendant Hoven was the deputy to Ding in both Blocks. (Ding Diary, Kogon, R. 1155-6).

Criminal experiments on concentration camp inmates without their consent were carried out in Block 46 to test typhus, yellow fever, smallpox, typhoid, para-typhoid A and B, cholera, and diphtheria vaccines.

The typhus experiments in Buchenwald were carried out on a very large scale and resulted in many deaths. The manner of execution and the results of the experiments are proved in great detail by the Ding Diary and the testimony of Kogon as well as other evidence. The first experiment began on 6 January 1942 with the vaccination of 135 inmates with the Weigl, Cox-Haagen-Gildemeister, Behring Normal, or Behring Strong vaccines. All vaccinations were completed by 1 February. On 3 March 1942, all of the vaccinated subjects and 10 inmates who had not been vaccinated (known as the "control group") were artificially infected with virulent virus of rickettsia-prowazeki furnished by the Robert Koch Institute. The experiment was concluded on 19 April 1942. Five deaths occurred, three in the control group and two among the vaccinated subjects. (Ding Diary; Mrugowsky Doc. 10, Mrugowsky Ex. 20, R. 5087).

In later experiments the number of experimental subjects usually varied between 40 and 60, but the proportion of control subjects was increased. Approximately two-thirds of the experimental subjects were vaccinated while one-third remained without protection. A few weeks after vaccination, all experimental subjects were artificially infected with typhus. The course of the disease was then observed in the protected and control groups and the effectiveness of the vaccine was determined. (Kogon, R. 1168). Therapeutic experiments were conducted in the same manner with various drugs. For example, between 24 April and 1 June 1943, experiments were performed to test the effect of Acridin-Granulat and Rutenol on typhus. Of

a total of 39 inmates used, 21 died. (Ding Diary; No-582, Pros. Ex. 286, R. 1124-5).

Artificial infection was accomplished in various ways. In the beginning the skin was lacerated and infected with a typhus culture. Contagious lice were used to a limited extent. For the most part, however, infection was brought about by the intravenous or intramuscular injection of fresh blood containing the typhus virus. For the sole purpose of maintaining a constant source of infected fresh blood, 3 to 5 inmates per month were artificially infected with typhus. The use of these so-called "passage persons" began at least as early as April 1943 and continued until March 1945. Substantially all of them died. These victims were so much "a matter of course" that their fatalities were not included by Ding in his diary. (Kogon, R. 1168-71).

An analysis of the Ding Diary proves that a total of 729 inmates were experimented on with typhus, of whom 154 died. To these figures must be added the passage persons, of whom between 90 and 120 died.

So much for the cold statistics of the experiments. Block 46, where the experiments were carried out, was a horror for every inmate of the Buchenwald Concentration Camp. Everyone selected for the experiments expected to die a slow and frightful death. The man-to-man passage of the typhus virus created a form of "super" typhus. (Kogon, R. 1168). While typhus normally has a mortality of about 30% in unprotected cases, in an experiment on 13 April 1943 five out of six persons infected died. (Ding Diary).

Many of the experimental subjects became delirious. (Kogon, R. 1172-3). In the experiments with acridin and rutenol, the subjects vomited up to seven times a day. Bronchial pneumonia, nephritis, intestinal bleeding, sub-cutaneous phlegmons below the larynx, parotitis, gangrene of the shank, furunculosis, bronchitis, and decubital sores developed as a result of this treatment. (NO-582, Pros. Ex. 286, R. 1124-5). Experimental subjects, who survived and had a lighter course of the disease because the vaccine with which they were vaccinated was effective, were forced to watch the death struggle of their fellow inmates. There was an iron discipline in Block 46, the cat-of-nine-tails ruled supreme, and the experimental subjects were completely deprived of the last vestage of personal freedom which they had in the camp. (Kogon, R. 1172-3).

It is hardly necessary to state that the experimental subjects used in the typhus, as well as all other experiments in Buchenwald, were not volunteers. One does not normally volunteer to be killed. In the first series of typhus experiments, a number of inmates were duped into submitting after being told it was a harmless affair and that they would get additional food. They were not informed that they would be artificially infected with typhus nor that they might die. (Kogon, R. 1162; see also the testimony of Kogon in Case 4, Military Tribunal No. II, R. 731-2, NO-3680, Pros. Ex. , R.). These subjects cannot be described as volunteers. After the first few experiments, it was no longer possible to deceive inmates into offering themselves for the experiments. Thereafter, up

until about the Fall of 1943, experimental subjects were chosen arbitrarily from among the inmates, whether criminals, political prisoners, or homosexuals. Intrigue among the prisoners themselves sometimes played a role in the selection. In the Fall of 1943, the camp administration no longer desired to take the responsibility for the selection of the experimental subjects. Ding no longer was satisfied with verbal orders from Mrugowsky to carry out the experiments and he asked for written orders. He approached Mrugowsky with the request that the Reichsfuehrer SS should appoint the experimental subjects. According to a directive from Himmler to Nebe of the Reich Criminal Police, only those inmates were to be used who had been confined for 10 years or more. Thereafter, most of the experimental subjects were habitual criminals, many of whom were transported to Buchenwald from other camps. But political prisoners were still included because they were in disfavor with the camp administration or because of camp intrigues. None of the experimental inmates had been condemned to death, except a few Russian prisoners of war who had not been tried or sentenced. They were from some 9500 Russian prisoners of war who were killed in Buchenwald. The experimental subjects were generally in good physical condition. (Kogon, R. 1162-3). The experimental subjects included not only Germans, but also Poles, Russians, and Frenchmen, as well as prisoners of war. The testimony of Kogon is applicable to not only the typhus experiments but to the other experiments in Buchenwald as well. (Kogon, R. 1167).

This testimony of Kogon is corroborated by the letter from Himmler to the Chief of the Security Police dated 27 February 1944. He said:

"I agree that professional prisoners be taken for experiments with the typhus vaccine. But only those professional criminals should be chosen who have served more than ten years in prison; that is not with ten prior convictions but with a total penalty of ten years.

"SS Gruppenfuehrer Nebe is to supervise the disposal of these inmates. I don't wish the physician to pick out inmates without my counter-control." (NO-1189, Pros. Ex. 471, R. 5440).

The same document shows that Mrugowsky received a copy of this decision on change in procedure and that it had been arrived at after a conference between Mrugowsky and Nebe.

The testimony of Kogon is further corroborated by the witness Kirchheimer (R. 1321-32) and the affidavit of Hoven. (NO-429, Pros. Ex. 281, R. 1078).

The defense has contested the authenticity of the Ding Diary. It is impossible to determine from the record precisely what their position is in that regard. That the diary does not consist of entries made day by day is obvious from the face of the document itself. It is rather a document which periodically summarizes the experiments which in many cases lasted several months. Ding also kept a daily diary and work reports. (Kogon, R. 1226). These obviously form the basis of the diary in evidence. The defense lays great stress on the fact that page one of the diary was typed with a older ribbon than pages two et seq., and hence was probably typed later. The Prosecution has no quarrel with that. Kogon gave the very obvious explanation

that the page was probably re-typed when the name of the experimental station was designated as the "Department for typhus and Virus Research". (R. 1228). At best, the reasons for re-typing pages is now a matter of sheer speculation. No valid inference can be drawn from that fact alone. The Ding Diary was taken by Kogon from Buchenwald. It was in his exclusive possession until delivered to the Office of Chief of Counsel for War Crimes. He testified that he did not alter the document in any respect and that the signatures of Ding, and later Schuler, are genuine. (R. 1164-6). He had no motive for changing the diary. The document was authenticated by the Prosecution as being in the same condition as when received.

The experts of the defense established that the document was written on the same typewriter with the same kind of paper. (Mrug. Doc. 8, Mrug. Ex. , R.). Mrugowsky admitted that Ding's signature is on substantially all of the pages of the diary. (R. 5410). There is no contention they have been forged. A comparison of the admittedly genuine signature of Ding on a vaccination chart (NO-578, Pros. Ex. 284, R. 1105) and of Schuler on an affidavit signed by him after the war (NO-257, Pros. Ex. 283, R. 1091) with the signatures of Ding-Schuler in the diary prove beyond any doubt that the signatures are authentic.

The defense has not established a single inaccuracy in the Ding Diary. The Prosecution, on the other hand, has proved the detail accuracy of the diary time and again by the introduction of independent documents.

It will suffice to cite a few examples. The work report of the "Department for Typhus and Virus Research" for the year 1943, which was sent to Mrugowsky, substantiates the corresponding entries in the diary in every detail. (NO-571, Pros. Ex. 285, R. 1106). The paper written by Ding on the treatment of typhus with acridin derivatives, approved by Mrugowsky, checks to the last death with the experiments reported by the entries in the diary for 24 April and 1 June 1943. (NO-582, Pros. Ex. 286, R. 1120). Mrugowsky's letter of 5 May 1942 to Conti, Grawitz, Genzken, Gildemeister, Eyer, and Demnitz reporting on a typhus vaccine experiment is in fact a description of the first experimental series in Buchenwald as given in the diary. This was a document submitted by the defense. (Mrug. Doc. 10, Mrug. Ex. 20, R. 5087). Mrugowsky admitted he was reporting on that experiment. (R. 5414). The entry in the diary for 19 August 1942 concerning the testing of the Bucharest vaccine made available by Rose is corroborated by Mrugowsky's letter to Rose, dated 16 May 1942, asking for the vaccines. (NO-1754, Pros. Ex. 491, R. 6460). The entry for 8 March 1944 concerning the experiments with the Ipsen (Copenhagen) vaccine, which the diary shows were suggested by Rose, is substantiated by Rose's letter to Mrugowsky of 2 December 1943 (NO-1186, Pros. Ex. 492, R. 6463) and by Lollin's letter to Grawitz of 14 February 1944. (NO-1188, Pros. Ex. 470, R. 5437; see also, NO-1189, Pros. Ex. 471, R. 5440). The yellow fever vaccine experiments reported in the diary on 10 January 1943 are dealt with in a letter from the Behring Works to Mrugowsky dated 5 January

1943. (NO-1305, Pros. Ex. 469, R. 5426). The phosphorus bomb experiments are noted in the Ding Diary under the dates of 19 to 25 November 1943. The report on these experiments dated 2 January 1944 shows the burning of inmates began on 19 November and ended on 25 November 1943. (NO-579, Pros. Ex. 288, R. 1188). As to the conference held on 29 December 1941 reported in the Ding Diary, Mrugowsky made the following statement in a pre-trial interrogation: "I remember that meeting and it occurred to me that there were present Schreiber, Gildemeister, Ding and myself." Mrugowsky admitted in open court having made such a statement. (R. 5380).

The above analysis of the authenticity and accuracy of the Ding Diary, while not exhaustive, suffices to show that the defense objection to this document is completely without merit. There is scarcely a line in the whole diary which has not been substantiated either by documents or testimony. The diary must be accepted as accurate in its entirety. There is no basis whatever for accepting some entries and rejecting others. The defense has presented no credible evidence of any inaccuracies. The living record of the deceased Ding is the best evidence of what actually happened.

Other vaccine experiments were carried out in the experimental station in Buchenwald. On request of the Medical Inspectorate of the Army, yellow fever vaccine containing a live virus was tested in a large experiment on inmates which began on 10 January 1943. The arrangements were made by Schreiber through the defendant Mrugowsky.

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(NO-1305, Pros. Ex. 469, R. 5426). A very large number of inmates were vaccinated between 13 January and 17 May 1943 at which time production of the yellow fever vaccine was abandoned because of the military situation in North Africa. The results of these experiments were sent to Amt XVI in the SS Operational Headquarters, which was the Hygiene Office under Mrugowsky, and to the Army Medical Inspectorate. (Ding Diary).

In the first part of 1943, Mrugowsky conferred with Handloser concerning multiple vaccinations. (Handloser, R. 3064). There can be no doubt that this was the motivation for the large scale vaccination experiments on 45 inmates of Buchenwald between 24 March and 20 April 1943, as set forth in the Ding Diary. Each person was vaccinated on eight different days within four weeks against smallpox, typhoid, typhus, para-typhoid A and B, cholera, and diphtheria. The report on these experiments was sent to Mrugowsky's office. Kogon testified that the experimental subjects were given para-typhoid bacilli in potato salad. He also stated that the experiments in Buchenwald with diseases other than typhus resulted in deaths although relatively fewer. (Kogon, R. 1182-3).

Mrugowsky would have the Tribunal believe that he is in no way responsible for the experiments carried out by Ding and Hoven in the Buchenwald Concentration Camp. He testified in effect that Ding was directly subordinated to Grawitz as far as the experiments were concerned. (Mrugowsky, R. 5067). While he did admit that Ding was subordinated to him for purposes of vaccine production in

Block 50 in Buchenwald, he said he had nothing whatever to do with the experiments carried out in Block 46. The same contention was made by the defendant Genzken. Mrugowsky testified that he was outraged by the idea of experimenting on human beings as he was of the opinion that human life is sacred. (R. 5066).

The proof, however, is overwhelming that Mrugowsky ordered the experiments carried out by Ding in Buchenwald. In his own pre-trial affidavit Mrugowsky stated that the Department for Typhus and Virus Research of the Hygiene Institute of the Waffen SS in Buchenwald was established in the beginning of 1942 by Genzken. He admitted that as Chief of Amt XVI (Hygiene) in the SS Operational Headquarters and as Chief of the Hygiene Institute of the Waffen SS, he was the immediate superior of Ding. He stated further that experiments on inmates were carried out by Ding in order to determine the effect of various typhus vaccines. He admitted he obtained full knowledge of the work of Ding, that he received reports from him on the experiments, including the death rates, and that he informed Genzken. (NO-423, Pres. Ex. 282, R. 1087). The two charts drawn by the defendant Mrugowsky clearly show that the experimental station in Buchenwald under Ding was directly subordinated to Mrugowsky from the time of its establishment until the collapse of Germany. (NO-416, Pres. Ex. 22; NO-417, Pres. Ex. 23, R. 121). Mrugowsky admitted Ding's connection with the Hygiene Institute of the Waffen SS on cross examination. (R. 5371).

The pre-trial affidavit of the defendant Hoven

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who was deputy to Ding and certainly in a position to know the facts, states that the Hygiene Institute of the Waffen SS under Mrugowsky received all the reports on the experiments in Block 46 and that Ding received orders directly from Mrugowsky. Hoven outlined the chain of command as Grawitz, Genzken, Mrugowsky, and Ding. Ding went to Berlin for discussions with Mrugowsky nearly every second week. Mrugowsky visited in the home of Ding on one of his trips to Buchenwald. (NO-429, Pros. Ex. 281, R. 1078).

Kogon testified that Ding reported personally to Mrugowsky on the experiments and when he did not go to Berlin himself, he reported regularly every three months in writing. (R. 1186, 1155). The reports on the experiments carried out in Block 46 were sent to Mrugowsky in Berlin. (R. 1160). Ding's official correspondence was primarily with Mrugowsky. (R. 1157). The instructions for the execution of the experiments came from Mrugowsky. (R. 1163, 1219). In the late summer of 1943 Mrugowsky became the sole chief of Ding and issued all orders to him. (R. 1202). Mrugowsky occupied such an important position that it would have been dangerous for Ding to contact Grawitz over his head. (R. 1241). Mrugowsky visited the experimental block in Buchenwald on several occasions. (Kogon, R. 1244-5; Kirchheimer, R. 1329).

The proof outlined above as to Mrugowsky's responsibility is repeatedly supported by documentary evidence. Ding's work report for the year 1943, which lists the experiments carried out in Block 46, was sent to Mrugowsky

and carried the letterhead "Hygiene Institute of the Waffen SS, Department for Typhus and Virus Research, Weimar, Buchenwald". (NO-571, Pros. Ex. 285, R. 1109). This work report covers the experiments in Block 46 and the production of vaccines in Block 50, which conclusively proves that Mrugowsky's assertion that his responsibility was limited to Block 50 is completely false. The same report shows that Mrugowsky inspected the Department for Typhus and Virus Research in Buchenwald on 3 September 1943 and that Ding had several conferences with Mrugowsky. Mrugowsky's own secretary admitted that Ding's reports about his experiments on inmates went via the Hygiene Institute of the Waffen SS to Grawitz. (Mrugowsky, Ex. 13, R. 5046).

Mrugowsky received Ding's report on the treatment of typhus with acridin derivatives. (NO-582, Pros. Ex. 286, R. 1122). This report speaks of clinical tests on human beings who were afflicted with typhus, but Mrugowsky knew that Ding experimented by artificially infecting the subjects. (Mrugowsky, R. 5066). The report shows on its face that 21 of the experimental subjects died and that the inmates who survived had to fight severe complications of the disease. This same experimental series is reported in the Ding Diary under the entries for 24 April and 1 June 1943.

The first experimental series on typhus carried out in Buchenwald between 6 January and 19 April 1942 in which 145 inmates were used as experimental subjects, was the basis of a report by Mrugowsky to Conti, Grawitz,

Genzken, Eyer, and Demnitz, dated 5 May 1942 (Mrugowsky Doc. 10, Mrugowsky Ex. 20, R. 5087). Five of the subjects died as a result of these experiments. (Ding Diary).

The experiments with the Cantacuzino vaccine from Bucharest, reported in the Ding Diary under the entry for 19 August 1942, were ordered by Mrugowsky. This vaccine was furnished by the defendant Rose who requested Mrugowsky to arrange for the experiments. On 16 May 1942 Mrugowsky wrote to Rose stating that Grawitz had consented to the execution of the experiments and that the vaccine should be sent to him (Mrugowsky). He also agreed to conduct experiments to determine whether the louse could be infected by a vaccinated typhus patient. This of course necessitated the infection of the experimental subject with typhus, (NO-1754, Pros. Ex. 491, R. 6460). As a result of these experiments, four of the subjects died. (Ding Diary).

The typhus experimental series No. VIII, during which the Ipsen vaccine from Copenhagen was tested, was also ordered by the defendant Mrugowsky. On 2 December 1943 Rose asked Mrugowsky to have the Ipsen vaccine tested in Ding's experimental station in Buchenwald. (NO-1186, Pros. Ex. 492, R. 7473). Mrugowsky expressly denied, during cross-examination, that he was ever approached by Rose to have the Copenhagen vaccine tested in Buchenwald. He stated that: "If he had come to me I would have sent him on to someone else. I would have said, 'My dear man, that does not have anything to do with me.'" (R. 5434-5). On 21 February 1944 Mrugowsky was notified that 30 "appropriate Gypsies" would be made available for testing the Ipsen

vaccine. (NO-1188, Pros. Ex. 470, R. 5437). Mrugowsky was further advised on 29 February 1944 that the experimental subjects would be designated by the office of Nebe of the Reich Criminal Police. (NO-1189, Pros. Ex. 471, R. 5440). The Ding Diary proves that the experiments with the Ipsen vaccine began on 8 March 1944 with 30 experimental subjects, of whom six died as a result of the experiments.

On 12 August 1944 the defendant Mrugowsky ordered Ding to carry out experiments to determine the infectious character of blood of light cases of typhus compared with that of serious cases. (NO-1197, Pros. Ex. 472, R. 5451).

Mrugowsky ordered a series of experiments to determine whether the course of typhus could be tempered by intravenous or intramuscular injection of typhus vaccine. Of the 25 experimental subjects used, 19 died. This experiment was carried out between 11 November and 22 December 1944. (Ding Diary).

In view of the evidence outlined above, it is quite clear that all of the experiments carried out by Ding in Buchenwald were executed pursuant to the orders and directions of the defendant Mrugowsky.

(2) Poison Experiments (Indictment, Par. 6 (K))

Poison experiments were carried out in the Buchenwald and Sachsenhausen Concentration Camps by order of the defendant Mrugowsky. (Kogan, R. 1183-6). The first series of the experiments was carried out in December 1943 in order to determine the fatal dosage of poisons of the alkaloid group. These experiments were requested by the SS Judge, Kogan, who investigated the criminal case against Koch, camp commander of the Buchenwald, and the defendant Hoven. Hoven was suspected of having killed a witness against Koch and himself by means of poison. Four Russian prisoners of war were experimented upon by Ding. The poison was administered to the experimental subjects in their food without their knowledge. All four survived, but were strangled in a crematorium of the concentration camp in order that autopsies could be performed. (Kogan, R. 1183-4; Ding Diary). Since Ding was subordinated to Mrugowsky, this experiment could not have been performed by Ding without Mrugowsky's approval.

On 11 September 1944 Mrugowsky and Ding carried out an experiment with aconitin nitrate projectiles in the Sachsenhausen Concentration Camp. The projectiles were filled with crystallized poison and five experimental subjects were shot in the upper part of the left thigh with these projectiles. In two cases, no effect of the poison could be observed. In the other three cases, the suffering of the experimental subjects was terrible. All three died after approximately two hours of agony. The poison bullets used in the experiments were allegedly of Russian origin. (NO-201, Pros. Ex. 290, R. 1303-4)

The experimental subjects were Russian prisoners of war. (Kogan, R. 1186; see also Kogan's testimony in Case 4, Military Tribunal II, R. 733, NO-3680, Pros. Ex. , R.). Mrugowsky admit-

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ted his participation in these experiments. He defended himself on the ground that he was the legally appointed executioner in this case. Assuming the truth of this absurd statement, it cannot be held legal to torture to death prisoners of war even if they had been validly sentenced to death.

On 26 October 1944 still another poison experiment was carried out by Ding in Buchenwald. The entry in the Ding Diary for that date states: "Special experiment on 6 persons according to instructions of SS Oberfuehrer Lecturer Dr. Mrugowsky and RKPA. (Report on this orally)." Kogon testified that Ding told him the Russian prisoners of war used in the experiments died in a short time. They were later dissected and burned. Ding reported to Mrugowsky orally. These experiments were connected with the poison bullet experiments in the Sachsenhausen Concentration Camp. (Kogon, R. 1185-6).

(3) Incendiary Bomb Experiments (Indictment, Par. 6 (L))

In November 1943, Mrugowsky ordered Ding to test the drug "R 17" on new phosphorous burns and "echinacin" ointment and liquid "echinacin" for the later treatment of such burns. Five experimental persons, who had been previously used in typhus experiments, were deliberately burned with inflamed phosphorous liquid, which was taken from an incendiary bomb. The resulting burns were very severe, as can be seen from the illustrated report on these experiments. (NO-579, Pros. Ex. 288, R. 1186). The victims suffered excruciating pain and were permanently injured. (Kogon, R. 1187-90; NO-579, Pros. Ex. 288, R. 1186; Ding Diary).

(4) Experiments with Old Blood Plasma and the Production of Blood Plasma and the Typhus Serum.

Experiments with old blood plasma were conducted on inmates in Buchenwald by order of Mrugowsky At the request of the Military Medical Academy. Blood transfusions were carried out in order to deter-

mine whether this old blood plasma could be used without danger, especially without danger of shock. Several series of experiments, each with 10 to 20 experimental subjects, were performed. Some of the victims died, probably due to the combined effect of shock and poor physical condition. Mrugowsky received reports on these experiments. (Kogon, R. 1190-2; Ding Diary, entries from 21 December 1943 to 16 June 1944).

The entries for 26 May and 13 October 1944 in the Ding Diary show that blood was withdrawn from inmates recovering from typhus for the purpose of making a typhus convalescent serum. The witness Kogon testified that this work was done by SS Hauptsturmfuehrer Dr. Ellenbeck on orders from Mrugowsky. Ellenbeck obtained the blood from typhus convalescents in Block 46 from the summer of 1944 until the spring of 1945. Blood was taken from these experimental subjects regularly, usually in amounts between 250 and 350 cubic centimeters. Taking the blood from the convalescent patients meant an extraordinary burden on them and a number died. While the precise cause of death could not be definitely ascertained under the circumstances, there is no doubt that the withdrawal of blood was a contributing factor. (Kogon, R. 1192-3).

Kogon further testified that Ellenbeck, on orders from Mrugowsky, systematically selected invalids and old persons, especially Frenchmen, who were in the so-called "little camp" of Buchenwald for the purpose of withdrawing blood to be used in making blood plasma. The horrible conditions in the "little camp" were vividly described. The blood was demanded from the victims and was taken from them. Sometimes extra food was given to these starving patients. (Kogon, R. 1194-6). Upon being asked whether any of these blood donors in the "little camp" in Buchenwald died from this blood-let-

ting. Kogon replied:

"The question shows that it is very difficult to gain a real concept of the little camp at Buchenwald. The people died there in masses. During the night the corpses were lying in the blocks naked because they were thrown out of the bunks by the other prisoners so that they would have a little more space. Even the smallest pieces of clothing were torn away from them by those who wanted to survive. It is impossible to determine if directly and immediately as a result of the taking of blood anybody died because many people fell and died while walking around the little camp.

"But it is beyond any doubt to anyone who has known the conditions there that the taking of blood, even if it gave a small measure of strength to these people as far as food was concerned, was a considerable contributing factor in the death of so many of these people". (Kogon, R. 1196).

Ellenbeck also conducted research concerning the oxygen content of the blood of human beings in various stages of exhaustion and artificially produced starvation edema. Krugowsky gave his approval to these experiments. (Kogon, R. 1257-66).

(5) Gas Edema Serum Experiments.

The affidavit of Dr. Erwin Schuler, alias Ding, states that at a conference in the Military Medical Academy in Berlin, in the end of 1942, in which he took part, one of the topics of discussion was the fatality of gas edema serum on wounded soldiers. The affidavit goes on to state that among the participants in the discussion were Killian, General Schreiber, Krugowsky, and a medical officer who was unknown to him. Killian and Krugowsky gave reports on soldiers who had received the serum in high quantities and hours later after apparently having recovered, died suddenly without visible reason. It was suspected that the phenol content of the serum

brought about the fatal result. In the presence of Killian and Schreiber, Krugowsky ordered Ding to take part in the performance of euthanasia with phenol on a concentration camp inmate and to describe the results in detail. Ding later witnessed the execution of four or five persons with phenol injections by the defendant Hoven in the Buchenwald Concentration Camp. According to orders, Ding reported his findings to Berlin. (NO-257, Pres. Ex. 283, R. 1091).

Krugowsky denied having given any such order to Ding. It is quite apparent, however, that Ding-Schuler, who was under arrest at the time he executed this affidavit, would not have implicated himself in a crime which did not occur. Krugowsky's continued interest in the effect of the phenol contained in serum is evidenced by a letter of August 24, 1944 from Grawitz to him. Grawitz stated that the Reichsfuehrer SS had approved experiments proposed by Krugowsky on the tolerance of serum containing phenol. (NO-1196, Pres. Ex. 466, R. 5300).

B. Other Experiments

(6) Freezing (Indictment, Par. 6 (3))

The cruel and murderous freezing experiments in Dachau were the subject of a frank report by Holzlochner, who conducted these experiments with Rascher and Ficke. This lecture was delivered in a conference which took place on the 26th and 27th of October 1943 in Nurnberg, as the written report on this meeting shows. (NO-401, Pres. Ex. 53, R. 309). The report by Holzlochner caused something of a sensation as it was made clear that concentration camp inmates were used as experimental subjects and that some of them died. (Ints. R. 372).

SS Obersturmfuehrer Wurthum was sent by Krugowsky to represent the Hygiene Institute of the Waffen SS at this meeting and he

reported to Mrugowsky on the meeting. (Mrugowsky, R. 5038; NO-401, supra.). Moreover, a few days earlier on 21 October 1942, Mrugowsky conferred with Sievers on cooperation between the Hygiene Institute of the Waffen SS and Rascher, with respect to the freezing experiments. A further meeting took place on 20 November 1942. (NO-647, Pros. Ex. 124, R. 383). Mrugowsky admitted that he spoke with Sievers in this connection. (Mrugowsky, R. 5040).

(7) Malaria Experiments (Indictment, Par. 6 (C))

As to the description and criminal nature of these experiments, reference is made to the Prosecution's brief on the defendant Rose. Mrugowsky admitted having been informed by Grawitz of Schilling's experiments in Dachau. He also admitted having concerned himself with malaria questions rather extensively. (Mrugowsky, R. 5043). He said he was unable to interfere with the experiments of Schilling as he was still in the SS Operational Headquarters at the time when he was informed by Grawitz. When he became a member of Grawitz's staff and Chief Hygienist, he said he did not know that Schilling still continued with his experiments. (Mrugowsky, R. 5396). Schilling continued his experiments until 1945. Over 1,000 inmates were experimented upon and several hundred died as a result. (NO-656, Pros. Ex. 125, R. 392). It is impossible that Mrugowsky could have remained ignorant for two years of experiments carried out on such a large scale, especially as these experiments were concerned with the combatting of epidemics, which was his own sphere of activity.

(8) Sulfanilamide Experiments (Indictment, Par. 6 (E))

As to the description and criminal nature of these experiments, reference is made to the Prosecution's brief on the defendant Gebhardt. Mrugowsky assisted in and encouraged these experiments. He

placed his staff and equipment for the execution of the experiments at the disposal of Gebhardt, a fact which Gebhardt himself mentions in his preliminary report of 29 August 1942 on the sulfanilamide experiments. This same report proves that Krugowsky furnished the infection material for the experiments and gave advice on ways to make the infection of the subjects more serious. (NO-2734, Pres. Ex. 473 for identification, R. 5623). The defendant Fischer, in his affidavit, also described the part which was played by Krugowsky and the Hygiene Institute. When no serious infections resulted after the first two series of the sulfanilamide experiments, it was decided, on the suggestion of Krugowsky, to change the type of bacteriological culture and to use a stronger type of culture than that used in the earlier experimental series. Krugowsky's office prepared the new gangrene cultures especially for the experiments. Since the infections which resulted from this series of experiments were not typical of battlefield gangrenous infections, the Hygiene Institute of the Waffen SS, Krugowsky's Office, was again consulted in order to determine what steps could be taken to simulate battle-caused infections more closely. It was on the suggestion of Krugowsky's office that Gebhardt and Fischer decided to add wood shavings and glass to the bacterial cultures in order to simulate the crust of dirt customarily found in battlefield wounds. (NO-228, Pres. Ex. 206, R. 768-9 771). This evidence is supported by the affidavits of the camp doctors, Rosenthal and Schiedlauskay. (NO-656, Pres. Ex. 223, R. 869; NO-608, Pres. Ex. 224, R. 893).

(9) Epidemic Jaundice (Indictment, Par. 6 (E))

Krugowsky denied on the stand that he ever had knowledge of, or connection with epidemic jaundice (hepatitis epidemica) experiments in concentration camps. (Krugowsky, R. 5052). He denied having had

discussions on this subject with Schreiber, the Plenipotentiary for combatting Epidemics in the Reich Research Council. He said Schreiber never requested him to supply experimental subjects for jaundice research. (Mrugowsky, R. 5398-9). But the proof has shown that Mrugowsky had full knowledge of such experimentation and -- encouraged by Schreiber -- approved the performance of such experiments in the Buchenwald Concentration Camp. He wrote to Reichsarzt SS Grawitz on 29 January 1945 as follows:

"Heutsturmfuhrer Professor Dr. Drosel, Director of the Hygienic Institute of the University of Leipzig has cultivated a Virus from persons suffering from Hepatitis and succeeded in transplanting it on animals.

It is necessary to make experiments on human beings in order to determine the fact that this Virus is indeed the effective Virus Hepatitis epidemica. The plenipotentiary for research on epidemics in the Reich Research Council therefore addressed himself to me with the request to carry out the above experiments.

I am asking you to obtain authorization from the Reichsfuhrer SS to carry out the necessary experiments on 20 suitable prisoners who have hitherto never suffered from Hepatitis Epidemica, at the typhus-experimental station of the concentration camp Buchenwald." (NO-1303, Pres. Ex. 467, R. 5400).

(10) Bacteriological Warfare

When the defendant Blume embarked on his criminal activities in connection with the preparation for bacteriological warfare (see Prosecution brief on the defendant Blume), he approached Mrugowsky for technical assistance in this matter. Mrugowsky prepared a compilation of the most important scientific material on this subject for Blume. Grawitz considered the matter so important that he sent a copy to Himmler on 1 August 1944. (NO-114, Pres. Ex. 334, R. 1481).

III CONCLUSION

Mrugowsky participated in the conference of 29 December 1941

at which the decision was made to test typhus vaccines by artificial infection experiments on concentration camp inmates. The experimental station established in Buchenwald under Ding was directly subordinated to Mrugowsky as Chief of the Hygiene Institute of the Wehrmacht SS. The orders for the experiments by Ding came from Mrugowsky. He received detailed reports on all the experiments. Approximately 250 inmates were killed as a result of the typhus experiments.

Mrugowsky approved poison experiments by Ding in Buchenwald on four Russian prisoners of war in December 1943. He personally participated in the shooting of five Russian prisoners of war with poison bullets in Sachsenhausen in September 1944. He ordered Ding to conduct poison experiments on six Russian prisoners of war in October 1944 in Buchenwald. Of the 15 victims of these experiments, 11 died.

Mrugowsky ordered the experiments by Ding to test treatments on burns artificially inflicted on inmates with phosphorus. He also ordered experiments with old blood plasma as well as the withdrawal of blood from inmates in poor physical condition for the production of blood plasma. Blood was also taken from patients convalescing from the typhus experiments in order to make a serum.

The phenol content of gas edema serum was tested by Ding, on orders of Mrugowsky, by killing inmates with phenol injections.

Mrugowsky conferred with Sievers at least twice with respect to cooperation between the Hygiene Institute of the Wehrmacht SS and Rascher on the freezing experiments. Mrugowsky actively participated in the sulfanilamide experiments by furnishing the infection material and giving advice on methods of making the artificially provoked infection more serious. He suggested epidemic jaundice experiments on inmates of Buchenwald. He furnished Blome with scientific advice on the bacteriological warfare experiments.

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Mrugowsky was no stranger to concentration camps. Aside from carrying out certain hygienic activities in connection with the camps, he ordered the gas for the chambers of Auschwitz, in which more than two and one-half million persons were exterminated. The affidavit of Hoess, commander of the Auschwitz Concentration Camp, proves that fact. (NI-034, Pros. Ex. 462, R. 3407).

The prosecution submits that the evidence proves that Mrugowsky was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experimentation on human subjects without their consent, in the course of which experiments murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts were committed, and that his guilt has been established under Counts I, II, III, and IV of the Indictment.

M I L I T A R Y T R I B U N A L N O . I

CASE NO. 1

CLOSING BRIEF FOR
THE UNITED STATES OF AMERICA
AGAINST
ADOLF POKORNY

James M. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

For:

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War Crimes.

Nurnberg,
16 June 1947.



INTRODUCTION

It is alleged under Count One of the Indictment that the defendant Pokorny conspired and agreed with others, pursuant to a common design, to perform medical experiments on involuntary human subjects; under Counts Two and Three (War Crimes and Crimes against Humanity, respectively) that he was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experimentation on involuntary human subjects.

The defendant Pokorny is charged with special responsibility for and participation in criminal sterilization experiments, as set forth in Paragraph 6 (I) of the Indictment.

I. RESPONSIBILITY FOR AND PERSONAL PARTICIPATION IN CRIMINAL EXPERIMENTS

In contradistinction to all other defendants in the dock, the defendant Pokorny never held any position of responsibility in the Party or State hierarchy of Nazi Germany. His past is the very insignificant one of a doctor in a small town. Before the Munich Agreement (October 1938), he had been a Czechoslovak citizen (Pokorny, R. 10013) and when his home town was occupied by the German Army on the basis of this agreement, he became a citizen of the Greater German Reich (ibid). During the war, he served as a medical officer in the German Army and attained the rank of Captain. (Pokorny, R. 10014). The defendant Pokorny was not a member of the Nazi Party. Neither was he a member of the SS. He cannot claim, and, as a matter of fact, does not claim that his duty as a soldier compelled him to participate or assist in any kind of criminal experimentation on involuntary human subjects. There is not a shred of justification why he should have approached Himmler on his own initiative and suggested to him plans

for the sterilization and eventual extermination of non-German nationals.

In Nazi Germany a law was in force which permitted sterilization of German citizens under certain circumstances. Persons afflicted with inheritable diseases were, among others, affected by this law. The legality of this statute is not here in issue as sterilizations which are the subject of this Indictment were performed, without any semblance of legal justification, to find a method for mass sterilization of so-called inferior races. Thus, Pokorny is charged with special responsibility for and participation in medical experiments which were conducted to ascertain inconspicuous, cheap and fast-working methods for mass sterilization of the enemies of the Nazi system. This was the clear purpose of the various sterilization experiments which were carried out in different concentration camps. (See the affidavit of R. Brandt, NO-440, Pros. Ex. 141, R. 501).

Several methods of mass sterilization were experimented with. Dr. Clauberg, who carried out sterilization experiments on female inmates in Auschwitz, by injection made from the entrance of the uterus, (NO-212, Pros. Ex. 173, R. 570), requested and obtained Himmler's support for such experimentation and was ordered by him to ascertain how long it would take to sterilize 1,000 Jewesses by his method. (NO-213, Pros. Ex. 171, R. 567). Himmler was also approached by the defendant Brack, who suggested fast-working and cheap sterilization by means of X-rays. In this connection, Himmler stressed the point that it was necessary to find a method of sterilization which would keep the victims unaware of their fate. (Brack, R. 7484). These facts prove beyond a doubt that mass sterilization of so-called inferior races was one of the major concerns of Himmler. The defendant Pokorny was the instigator of the criminal experiments with medicinal

sterilization. In October 1941, he submitted to Himmler a report urging the sterilization of millions of non-German nationals by means of a drug (caladium seguinum) obtained from the sap of the plant ochweigrohr. (NO-035, Pros. Ex. 142, R. 510). This letter was forwarded by Professor Hoehn to Himmler in order to, as Pokorny put it, "avoid the slower process through channels and the possibility of an indiscretion in regard to the eventually enormous importance of the ideas presented." (Emphasis supplied). The extreme haste with which Pokorny tried to have his suggestions submitted to Himmler and the way in which he stressed the great importance of the matter show clearly his eagerness to secure Himmler's consent and to gain favor for his idea and himself. Pokorny went on to say in his letter that he was "led by the idea that the enemy must not only be conquered but destroyed." (emphasis supplied). As one of the means for the destruction of the enemy, he suggested to Himmler the sterilization of millions of non-German nationals who were in the power of the Third Reich by the use of the sap of the plant caladium seguinum. He informed Himmler about the publication of Madaus on medicinal sterilization and about the immense importance of this drug "in the present fight of our people". He then went on to say:

"If, on the basis of this research, it were possible to produce a drug which after a relatively short time, effects an imperceptible sterilization on human beings, then we would have a new powerful weapon at our disposal." The thought alone that the 3 million Bolsheviks, at present German prisoners, could be sterilized so that they could be used as laborers but be prevented from reproduction, opens the most far reaching perspectives." (Underlining Pokorny's).

Pokorny explained that caladium seguinum, when applied orally or by injection, would produce permanent sterility of male and female human beings as Madaus' research on animals had proved. Pokorny said that if his ideas met with Himmler's approval, the following should be done:

- "1.) Dr. Madaus must not publish any more such articles (The enemy listens!)
- "2.) Multiplying the plant (easily cultivated in greenhouses!)
- "3.) Immediate research on human beings (criminals!) in order to determine the dose and length of the treatment.
- "4.) Quick research of the constitutional formula of the effective chemical substance in order to
- "5.) produce it synthetically if possible."

In conclusion, Pokorny pledged secrecy as to the purpose of his report.

The proof has shown that the suggestion of Pokorny was eagerly taken up by Himmler and had his full approval. Pokorny's letter was the cause of what followed. The handwritten notation on Pokorny's letter, "Dachau" (NO-035, supra), reveals that Himmler's immediate reaction was to have experiments on inmates of the Dachau Concentration Camp carried out, which would ascertain whether the drug caladium seguinum could be used for mass sterilization. On 10 March 1942, Himmler sent Oswald Pohl, Chief of the WVHA (Economic and Administrative Main Office) of the SS and administrative director of all concentration camps, a copy of Pokorny's memorandum and ordered him to contact Madaus and make it possible to carry out experiments on concentration camp inmates in collaboration with Grawitz, the Reich Physician SS and Police. Himmler's letter to Pohl reveals that he found Pokorny's memorandum "very interesting". In the same letter, Himmler ordered Pohl to advise Madaus not to publish anything on the subject of medicinal sterilization. (NO-036, Pros. Ex. 143, R. 512; NO-038, Pros. Ex. 147, R. 514). A copy of this letter was forwarded by the defendant Rudolf Brandt to Grawitz (ibid), who also received a copy of Pokorny's report and information on the publication of Madaus concerning medicinal sterilization of animals and the plant caladium seguinum.

(NO-P37, Pros. Ex. 146, R. 513). Also Heydrich, the Chief of the Security Police and Security Service (SD), was informed about the possibilities of sterilization by caladium seguinum obvious in contemplation of the mass sterilization of Jews. (NO-047, Pros. Ex. 145, R. 513).

Pohl wrote to Himmler on 3 June 1942 that since caladium seguinum grew only in North America and, during the war, could not be exported in adequate quantities, attempts to grow the plant from seed cultivated in hot houses had been made by Dr. Koch of the Biological Institute of the Madaus Works. These attempts had been successful, but the process of growing the plant and developing the drug was not speedy enough and the yield not sufficient to permit experimentation "on a large scale." In order to remove these differences, it was considered necessary to build a larger hot house. Pohl had promised that to Koch. (NO-046a, Pros. Ex. 148, R. 515). On 11 June, Rudolf Brandt advised Pohl that he had informed Himmler of Pohl's letter and that Himmler wanted Pohl to see to it that a large hot house was placed at Koch's disposal as soon as possible as Himmler considered the experiments "extremely important". Rudolf Brandt also asked Pohl for further reports in the matter. (NO-046b, Pros. Ex. 149, R. 516). Eight days later, Brandt had a conference with Pohl in which, among other things, he informed him of Himmler's request to have the ingredients of caladium seguinum thoroughly investigated. Himmler wanted to know whether equally effective ingredients were contained in plants which were to be found in Germany or in any place in Europe accessible to the SS. Dr. Koch was to be supported to the fullest extent. He informed Pohl that: "The Reichsfuehrer SS also requests that with the ingredients of this plant on hand, sterilization experiments should now in any case be carried out in the concentration camps."

Pohl agreed to take the necessary steps at once. (NO-044, Pros. Ex. 150, R. 517). The office IV-B-4 of the Reich Main Security Office, the agency which was in charge of the "solution of the Jewish question" (Judgment of the IMT, R. 16924) was informed by Himmler's adjutant about the research work and requested to collaborate closely with Pohl in this matter. (NO-050, Pros. Ex. 151, R. 518).

Approximately a year after Pokorny's instigation of sterilization experiments, the deputy Gauleiter (Province leader) of the Lower Danube (lower Austria), SS Obergruppenfuehrer Gerland, made the same suggestion to Himmler. Gerland advocated experimentation on inmates of the Gypsy camp of Lackenbach in the Lower Danube with caladium seguinum. Gerland pointed out that if these experiments should be successful, which was to be expected, it would be possible to sterilize practically unlimited numbers of people in the shortest time and in the simplest way conceivable. (NO-039, Pros. Ex. 153, R. 519). Brandt informed Gerland that this matter was already known to Himmler (as a result of Pokorny's letter) and was being worked on. He asked Gerland whether he had caladium seguinum available and what means for the procurement of this plant he would suggest. (NO-040, Pros. Ex. 154, R. 521). Pohl informed Gerland on 7 September 1942 that he was personally supervising the experiments, together with Dr. Lolling, the Chief Physician of the concentration camps. (NO-042, Pros. Ex. 155, R. 523). In the letter of the same date to Brandt, Pohl said that an agreement had been reached with Madaus "to transfer the experiments to our concentration camp as soon as possible." (NO-041, Pros. Ex. 156, R. 523). Gerland later advised that his assistant Dr. Fehringier wished to attempt to produce caladium seguinum synthetically and suggested collaboration between Lolling and Fehringier. (NO-043, Pros. Ex. 157, R. 524).

Brandt agreed to the collaboration between Fehringer and Lolling. (NO-049, Pros. Ex. 159, R. 525; NO-048, Pros. Ex. 158, R. 524). The proof has shown beyond a reasonable doubt that sterilization experiments with caladium seguinum were, in fact, carried out on concentration camp inmates. Himmler, who was the highest authority, to decide such questions, not only gave his consent to these experiments (NO-036, supra), but considered them "extremely important" (NO-046b, supra) and requested that they should be carried out in the concentration camps in any case. (NO-044, supra). When informed about Himmler's request by the defendant Rudolf Brandt, Pohl, who was in charge of the administration of the concentration camps, agreed to take the necessary steps immediately. (NO-044, supra). The transmittal of the report of Madaus to Heydrich, the Chief of the Security Office and SD, with reference to "the question of sterilization by medicine" (NO-047, supra) could only have had the purpose to inform him of the nature of this type of sterilization experiments. There can be no doubt that the Office IV-B-4, which was charged with the solution of the Jewish question, was informed about Madaus' research work for the purpose of furnishing the necessary Jewish victims for the experiments. The collaboration of Dr. Lolling, who was the doctor in charge of all concentration camps, can only be explained in connection with experimentation in these camps. This is also clear from Gerland's letter to Rudolf Brandt:

"SS-Obergruppenfuehrer Pohl has informed me that the doctor of his Main Office is already collaborating with the Madaus Biological Institute for research on the effects of caladium seguinum, so that the suggestion of my District Main Office Leader (Gauhauptstellenleiter) Dr. Fehringer becomes obsolete." (NO-043, supra - emphasis supplied).

It can only be concluded that Pohl and Lolling carried out the experiments in concentration camps as it was agreed

upon between them, Himmler, Rudolf Brandt and Madaus. (NO-041, supra). Moreover, Brandt himself admitted in his affidavit that experiments with caladium seguinum on human beings were carried out in concentration camps.

"As result of Pokorny's suggestion experiments were conducted upon concentration camp prisoners in order to test the effect of the drug. Simultaneously all efforts were made to cultivate the plant in large quantities. Oswald Pohl, Chief of the Economic and Administrative Main Office (WVHA), took a personal interest in this matter. Hothouses were used, with a certain amount of success, to cultivate this plant, and the experiments were continued." (NO-440, Pros. Ex. 141, R. 501).

Pokorny admitted having written the memorandum to Himmler (R. 10041-2) which brought about the sterilization experiments with caladium seguinum. He stated in his defense that he only wanted to prevent the execution of Himmler's intentions for mass sterilization and extermination of the inhabitants of the Eastern territories and Jews. He allegedly learned about this plan from a patient of his, a certain Voigt, in July 1941, and wanted to sabotage this plan of Himmler. (R. 10037). He considered the idea to sterilize human beings by caladium seguinum scientifically impossible and was of the opinion that the conclusions of the articles of Madaus did not quite correspond with the facts, so he got the idea that this impossibility of execution might be a way to frustrate Himmler's plan for mass sterilization. (R. 10040). He, therefore, approached a high-standing personality, who was a friend of Himmler's but whose name was unknown to him, to forward a letter to Himmler suggesting such sterilization to Himmler. This personality suggested that he might approach Professor Hoehn. (R. 10042). Pokorny further stated that it is impossible or nearly impossible to sterilize or castrate a human being with caladium seguinum in Europe, as tropical plants grown in hot houses lose their poisonous

effect. Moreover, a very high amount of drug would be necessary to achieve castration of a human being with the use of caladium seguinum. (R. 10069). This protestation of idealism and high purpose in trying to sabotage the sterilization and extermination of Jews and opponents of the Nazi regime has been used by every criminal proved to have been a party to such mass murders and persecutions. Streicher was all for a "decent solution of the Jewish question" and wanted the Jews resettled on Madagascar. (See closing statement of Mr. Justice Jackson). The defendant Brack uses precisely the same ridiculous "defense". He can't understand how he could be regarded as an enemy of the Jews. His proposals for X-ray sterilization were, as Pokorny's, simply an effort to frustrate the plans for extermination. X-ray sterilization, just as medicinal sterilization, was really impossible. These statements are of course the last attempts of desperate men to avoid the just penalty for their horrible crimes. They are obvious attempts to impose upon what they hope are generous and gullible opponents. Pokorny's treatment of his own half-Jewish wife is evidence enough of his real regard for so-called "racial inferiors".

The contention that caladium seguinum could not cause sterility in human beings is no defense. It is quite sufficient that they thought it might be effective and did everything they could to make it so. One commits a crime when he attempts to murder someone even though that may be physically impossible. Moreover, there is considerable proof that caladium seguinum can produce castration in human beings. The expert witness Dr. Scheiffarth came to the following conclusions on the basis of a study of the publication on animal experiments by Madaus:

"According to thorough examination of the tissue as shown in the microphotographic reproductions (illustrations II b, IV b and V b on page 77, 78, 80, 82) and according to the explanations given in the text by the authors themselves, the reactions caused by caladium show 'a striking similarity with changes caused by castration in the entire male sexual organism (page 87 of the publication). Nevertheless the authors do not want to draw the conclusion that the point of attack of the caladium is selectively situated in the germ-glands."

* * * * *

"The only essential result of the present publication is that the effect of caladium might correspond to a castration. As mentioned at the beginning the main objection to the application of this method to human beings would be that castration does not only mean 'sterilization', i.e., prevention of breeding, but also a serious injury to the biological entirety of the individual." (NO-3347, Pros. Ex. 546, R. 10368).

Dr. Tauboeck in his affidavit stated on the same subject:

"By careful examination of sections of mice and rats and of the histological preparations, I was convinced that the publications of Messrs. Madaus were perfectly true. By this examination I, as a specialist in this field, gained the conviction that sterilization with caladium seguinum is no Utopia, but something which is quite within the bounds of possibility. On the return journey from Dresden to Berlin, the SS men revealed to me that this research was being carried out on the express order of Reichsfuehrer SS Himmler in order to suppress birth among the Eastern nations. After this fact had been revealed to me I was sworn to secrecy."

* * * * *

"I am convinced from a scientific point of view that it is possible to produce a highly effective preparation from caladium plants cultivated in mid-European climates....."

* * * * *

"As a result of all example and explanations mentioned I am of the opinion that mass production of a castrating preparation from caladium seguinum in Germany or in the German occupied countries is no dream, but could easily have been put into practice. Another proof of the harmfulness of the caladium poison is the fact that the Madaus examinations confirmed beyond doubt the castrative effect of caladium despite all the shortcomings already described. All this made me realize at once the criminal character of such research

and for this reason did not carry it out as far as any specific order was concerned. The SS, however, took a great interest in this matter. I received my orders as an employee of the I.G. Farben Industrie from the chief of the security police, first through the camouflaged office of the Research Institute Gruenwald-Berlin and later direct. I know, however, that the firm Madaus placed their orders through SS Obergruppenfuehrer Pohl separately and am not acquainted with the development of this matter." (NO-3963, Pros. Ex. 528, R. 10088).

The letter from Pokorny to Himmler is the only evidence against him, but it is quite sufficient. He instigated the crime of mass sterilization and suggested a way of accomplishing it. He thus became an accessory before the fact. "An accessory before the fact is one who, though absent at the commission of the felony, procures, counsels, or commands another to commit said felony subsequently perpetrated in consequence of such procuring, counsel, or command". (Wharton's Criminal Law (1932) Vol. 1, Section 263). Nothing could be clearer than that Pokorny counselled and instigated the precise crime which was committed. His was specific, not general advice as to the ways and means of accomplishing the crime. Wharton's states that: "Under the head of 'counsel' may be included advice and instruction as to the modes of committing particular crimes..." (ibid, section 265). Moreover, it "makes no matter how long a time or how great a space intervenes between the advice and the consummation, provided that there is an immediate causal connection between the instigation and the act". (ibid). The causal connection in this case is clear and unequivocal. Pokorny's instigation formed the direct basis for what was done. His memorandum was read and approved by Himmler and passed on to those who did the work.

Not only must Pokorny be found guilty of the cala-

dium seguinum crimes, but also of being connected with plans and enterprises involving the commission of criminal sterilization experiments by other means as well. His instigation necessarily gave impetus and support to the basic crime of mass sterilization itself. Pokorny suggested medicinal sterilization, Brack - X-ray, and Clauberg - injection. But they all had the same criminal purpose and led to the same unlawful end. Each supported and furthered the other. In the summer of 1942, Himmler was making efforts in all directions to find a fast and inconspicuous means of mass sterilization. Pokorny was a party to the criminal plan and his guilt is measured by the sum total of crimes committed.

The Prosecution submits that the evidence proves that Pokorny was a principal in, accessory to, ordered, abetted, took a consenting part in, was connected with plans and enterprises involving, and was a member of an organization or group connected with, the commission of medical experimentation on human subjects without their consent, in the course of which experiments murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts were committed, and that his guilt has been established under Counts I, II and III.

MILITARY TRIBUNAL NO. I

CASE NO. 1

CLOSING BRIEF FOR
THE UNITED STATES OF AMERICA
AGAINST
HELMUT POPPENDICK

James M. McHaney
Alexander G. Hardy
Ernest Horlik-Hochwald
Esther Jane Johnson

For:

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War Crimes

Nurnberg,
16 June 1947



INTRODUCTION

It is alleged under Count One of the Indictment that the defendant Poppendick conspired and agreed with others, pursuant to a common design to perform medical experiments on involuntary human subjects; under Counts Two and Three (War Crimes and Crimes Against Humanity, respectively), that he was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experimentation on involuntary human subjects; and under Count Four, that he was a member, after 1 September 1939, of the SS, an organization declared to be criminal by the International Military Tribunal.

The defendant Poppendick is particularly charged with having participated in the freezing experiments, set forth in Paragraph 6(B) of the Indictment, malaria experiments (Paragraph 6(C)), sulfanilamide experiments (Paragraph 6(E)), sea water experiments (Paragraph 6(G)), epidemic jaundice experiments (Paragraph 6(H)), sterilization experiments (Paragraph 6(I)), typhus experiments (Paragraph 6(J)), and incendiary bomb experiments (Paragraph 6(L)). The Prosecution, in order to simplify the issues, herewith withdraws the charges of having participated in the high altitude experiments, set forth in Paragraph 6(A) and the poison experiments, set forth in Paragraph 6(K).

I. POSITIONS OF RESPONSIBILITY

The defendant Poppendick joined the NSDAP in 1932 and the SS in the same year. In the SS he attained the rank of Oberfuehrer (Senior Colonel). From 1935 on, he served as physician in the Main Race and Settlement Office (RuSHA) of the SS and, in 1941, was appointed Chief Physician of this office. (Poppendick, R. 5533-40; NO-672, Pros. Ex. 30, R. 133). As early as 1939 he

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became a member of the staff of the Reichsarzt SS and Police Grawitz and took care of various special assignments in addition to his duties in the RuSHA. (Poppendick, R. 5612-3). In 1943 he was made Chief of the Personal Office of Grawitz. (Poppendick, R. 5544, NO-672, supra). Other office chiefs under Grawitz included the defendants Mrugowsky and Gebhardt. (NO-417, Pros. Ex. 23, R.). Thus three of the important collaborators of Grawitz are defendants in this proceeding.

During his collaboration with Grawitz, Poppendick obtained knowledge and supported many of experiments which were carried out in the various concentration camps. In spite of the fact that Grawitz, according to Poppendick's statement, was very fond of secrecy (Poppendick, R. 5546), Poppendick was informed about his activities. Poppendick obtained knowledge of Schilling's malaria experiments in the Dachau Concentration Camp from Grawitz. (Poppendick, R. 5567). He knew that Ding engaged in experiments in the Concentration Camp Buchenwald in connection with the production of typhus serum or typhus vaccine. (Poppendick, R. 5579). Poppendick certified Gebhardt's preliminary report on the sulfanilamide experiments. (NO-2734, Pros. Ex. 473, R. 5622). This report was submitted to Himmler and Grawitz, who endeavored to act with painful carefulness in everything connected with Himmler or the Personal Staff, (Poppendick, R. 5541) would certainly not have permitted the signature of a person who was not supposed to take cognizance of its contents to appear on a document which Himmler would see. Poppendick took part in conference with Grawitz and Rascher on the freezing experiments in January 1943. During this conference, Poppendick made the remark

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that: "I already had to ask Sturmbannfuhrer Sievers several times to come to me to receive information. In the long run, all medical matters end up with us anyway." (NO-320, Pros. Ex. 103, R. 338 - emphasis supplied). Poppendick also took part in conferences which Grawitz had with the defendant Sievers and made arrangements for such meetings. He made doctors available for medical experimentation and took care of the distribution of research assignments. This scope of his activities is clearly apparent from the entries which the defendant Sievers made in his diary of 1944. (3546-PS, Pros. Ex. 123, R. 382, entries of 26 and 28 April, 20 and 23 May, 8 September, and 23 October.)

This confidential relationship between Poppendick and Grawitz existed long prior to his appointment as Chief of the Personal Staff in 1943. Poppendick himself admitted that there was no change in his position after he obtained his new appointment on 1 September 1943. (Poppendick, R. 5612-3). It is also proved by the fact that Gebhardt's report which was certified by him is dated 7 September 1942. (NO-2734, supra) and that the conference between Poppendick, Grawitz and Roscher took place on the 13th January 1943. (NO-230, supra).

Viewed in the light of this evidence, Poppendick's statement that he was a mere "messenger boy" in Grawitz's office, (R. 5613) is entirely incredible. It should be borne in mind that Grawitz had an adjutant and a secretary for the accomplishment of minor tasks. (Poppendick, R. 5542). Grawitz promised him that he would not have to bother with general office work. (Poppendick, R. 5544). Moreover, Poppendick was a Senior Colonel in the SS and highest ranking

doctor in the Race and Settlement Main Office. (supra). It goes without saying that Grawitz certainly would not have used such a high ranking person as a mere "messenger boy" and that Poppendick would not have permitted anyone to make use of him in such a way. An evaluation of Poppendick's work by Grawitz in connection with a recommendation for promotion in 1944 is revealing on this point. Grawitz said:

"P. (Poppendick) is one of the oldest SS doctors in Berlin. I worked together with him in the Schutzstaffel (SS) since 1931. He distinguishes himself - most of all by showing an unswerving, exceptional strength of character and by proven accomplishments.

"Through his leading position in the medical work of the SS Race and Settlement Main Office, he has gained merit for himself by his independent, organizing and developing, scientific-creative work.

"As Chief of my Personal Office, he handles the tasks and spheres of activity pertaining thereto with exceptional force and outstanding ability. His circle of comrades has greatest confidence in him..." (NO-1120, Pros. Ex. , I.).

In order to appreciate Poppendick's influence as Chief of the Personal Staff and collaborator of Grawitz, it is necessary to keep in mind the position the latter held in the Medical Service of the SS and the role he played in the execution of the various experiments which are the subject of this trial. That the "SS and Himmler were the common element in all of these experiments" is admitted by the defendant Gebhardt. (Gebhardt, R. 4192). Grawitz, the Reichsarzt SS and Police, was the highest ranking medical officer in the SS and, consequently, the direct superior of the defendants Ganzken, Gebhardt and Brugowsky. The Chief of Office III of Department D of the WVHA of the SS (Economic and Administrative Main Office), Dr. Lollme, who was in

charge of the medical service in the concentration camps, was also subordinated in technical matters to Grawitz. (NO-416, Pros. Ex. 22, R. 121; NO-417, Pros. Ex. 23, R. 121). Grawitz participated to a greater or lesser degree in every criminal experiment on concentration camp inmates. Indeed, most of the defendants seek to establish exclusive responsibility in Grawitz for these crimes, for example, Genzken and Mrugowsky. Thus, Grawitz's closest collaborator, the defendant Poppendick, is forced into the ridiculous position of saying that Grawitz was secretive, that he didn't know about these things. If there were not a single document or shred of testimony in the record against him, his position alone would require his conviction. It would be impossible to conclude that a high ranking doctor who worked with Grawitz did not know of and actively support the criminal experiments in which he played an essential part. All of the experiments were supported by and reported to Grawitz's office and many of them were ordered by him. If one worked with Grawitz, he had to support that criminal research as it was Grawitz's principal function. But we need not rest on Poppendick's position alone. The proof shows that he knew of and personally participated in criminal experiments.

II. PERSONAL PARTICIPATION IN CRIMINAL EXPERIMENTATION

.. Incendiary Bomb Experiments (Indictment, Par. 6 (L))

Sturmbannfuhrer Ding-Schuler (Hereinafter referred to as Ding) carried out incendiary bomb experiments in the Buchenwald Concentration Camp between 19 and 25 November 1943. (Ding Diary). In order to ascertain the effectiveness of the Drug R 17 and echinacin ointment and liquid for the treatment of phosphorous burns, five experimental persons were deliber-

ately burned with inflamed phosphorous which was taken from an incendiary bomb. The resulting burns were very severe, the victims suffered excruciating pain and permanent injury. The drugs to be tested were manufactured by the Dr. Madus Works in Radebeul-Dresden. (Kogon, R. 1187-90).

The report on these experiments (NO-579, Pros. Ex. 288, R. 1188), was forwarded by Ding to the defendant Poppendick and Mrugowsky. (Kogon, R. 1158, 1188). The Research Department V (for Vonkennel) in Leipzig was also interested in these experiments. Correspondence by Ding with this department went through Poppendick. (Kogon, R. 1158, 1175, 1247, 1267). Research Department V was a laboratory run by Sturmbannfuhrer Vonkennel with funds and material furnished by Grawitz. (Poppendick Ex. 8, R. 5592). Poppendick was the expert in Grawitz's office responsible for the work of that laboratory. (Kogon, R. 1267). This testimony of Kogon is corroborated by letters from Vonkennel to Poppendick and Ding to Poppendick concerning typhus experiments. (NO-1182, Pros. Ex. 477, R. 5641; NO-1184, Pros. Ex. 476, R. 5639; NO-1185, Pros. Ex. 478, R. 5645). The latter was actually typed by Kogon for Ding as can be seen from the file notation.

B. Hormone Experiments

Experiments to ascertain the effectiveness of artificial glands were carried out in the Buchenwald Concentration Camp on the order of the defendant Poppendick. (Kogon, R. 1196). On 15 July 1944, he approached Ding with the request to assist the Danish SS Physician Vernet, who was to carry out these experiments. In his letter to Ding, Poppendick states:

".....The technical preparations have come to such a point that experiments on human be-

ings (Humanversuche) can be started within a reasonable space of time.

"As SS-Standartenfuehrer Dr. Lolling informed me the CC Weimar-Buchenwald has been directed to make available 5 prisoners for SS-Sturmabfuhrer Vernet's experiments. These prisoners will be made available to SS-Stubaf. Vernet by the camp physician at any time.

"SS-Stubaf. Vernet intends to go to Buchenwald shortly in order to make certain necessary preliminary tests on those prisoners. In case there will be special laboratory tests, you are requested to assist Vernet within the scope of your possibilities.

"Particulars on Vernet's research were sent today to the camp physician of Weimar-Buchenwald for his information." (NO-1300, Pros. Ex. 289, R. 1199).

Vernet also cooperated with Research Department V in Leipzig, subordinate to the experimental section "V" (for von Kennel) in Leipzig. The purpose of the experiments was to ascertain whether it was possible to remove homosexuality by operational transplantation of artificial glands. (Kogon, R. 1247). Experimental operations were actually carried out on approximately fifteen inmates of the Buchenwald Concentration Camp, who were selected by the camp doctor or his subordinates. Two of the experimental subjects died as a proximate result of the experiments. (Kogon, R. 1197-9, 1266). This evidence is corroborated by the affidavit of the camp physician, Dr. Schiedlausky. (NO-508, Pros. Ex. 224, R. 895). As Poppendick had ordered these experiments, Ding reported to him the results of the experiments Vernet carried out in the Buchenwald Concentration Camp. (Kogon, R. 1200).

C. Typhus Experiments (Indictment, Par. 6 (J))

As to the description and criminal nature of these experiments, reference is made to the Prosecution brief on

the defendant Mrugowsky.

Poppendick admits that he had knowledge of the fact that Ding was producing some typhus serum or typhus vaccine in the Buchenwald Concentration Camp. (Poppendick, R. 5579). He allegedly had no knowledge that Ding experimented on human beings. The evidence, however, has clearly shown that Poppendick not only had knowledge of the typhus experiments carried out in the Buchenwald Concentration Camp, but requested the defendant Mrugowsky to issue instructions to Ding to carry out typhus experiments with sulfonamides furnished by Research Department V (Vonkennel). On the 13th of June 1944, he wrote a letter to Mrugowsky's office, which read as follows:

"A communication from SS-Stubaf. Professor Dr. Von Kennel was transmitted on 1 June 1944, the last paragraph of which reads as follows:

"We have already made experiments with Sulfonamide in Typhus cases, however, without success. Kimmig, however, has synthesised a substance of diaminodiphonylsulphone which in a mouse carrying Streptococci, is to such an extent superior to all sulfonamides that it nearly reaches a penicillin. The inoculation of human beings however still creates very unpleasant secondary manifestations, acute byznosis. Nevertheless it is worth considering whether or not some orientation tests should be made on persons suffering from typhus in order to continue the efforts to detoxic to this remedy. Could you act as a mediator in our efforts to cooperate with some clinic?"

"According to your communication of June 2, 1944, Diary No. 370/44, the Chief Hygienist agreed to the fact that the Typhus Research Dept. Buchenwald should experiment with the 'Diaminodiphonylsulphone' according to Von Kennel and Kimmig on typhus cases in order to determine its effectiveness and compatibility. There are enclosed more detailed data re the above remedy and it is requested that they be further transmitted to SS-Stubaf. Dr. Ding, SS-Stubaf. Professor Dr.

Von Kennel furthermore advises that a certain quantity of the above remedy will arrive here during the next few days. Upon arrival this remedy will likewise be forwarded there.

"Professor Dr. Von Kennel considers it very advisable that Dr. Ding should call on him in his clinic in Leipzig for the purpose of discussing this rather different therapy. The necessity for absolute secrecy is stressed to all institutions concerned." (NO-1184, Pros. Ex. 476, R. 5639-40) (Emphasis supplied).

This document shows on its face that Poppendick was well aware that Ding did not only "produce a serum or vaccine against typhus", but actually experimented on human beings as Poppendick suggested the experiments in the typhus research department of Ding as an alternative to a clinic.

The proof has further shown that Von Kennel submitted a drug which was to be used for the experiments to Poppendick. (NO-1182, Pros. Ex. 477, R. 5641) who in due course had it forwarded to Ding who acknowledged its receipt on 21 July 1944. (NO-1185, Pros. Ex. 478, R. 5645). These documents, submitted to Poppendick in cross examination, not only destroy the credibility of his own testimony but also the probative value of the affidavits of Kinnig and Von Kennel, wherein they state that the experimental department in Leipzig never had anything to do with the hormone experiments of Vernet (supra), with typhus or with experiments concerning burns. (Poppendick, Ex. 7, R. 5590; Ex. 8, R. 5592).

The proof has further shown that Poppendick obtained Ding's report to Hrusowsky on the treatment of typhus with acridin derivatives on September 29, 1944. (NO-582, Pros. Ex. 286, R. 1122). This report speaks of clinical tests on human beings, but Poppendick knew that Ding had experi-

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mented on human subjects by artificially inducing typhus. This is proved by his letter to Mrugowsky quoted above and also by the correspondence with Ding regarding the hormone experiments. Moreover, no evidence was introduced by the Defense that a typhus epidemic was prevalent in Buchenwald at that time or at any time. The report itself shows on its face that more than half of the experimental subjects died and that the patients who survived had to fight severe complications of the illness. (NO-582, Pros. Ex. 286, R. 1124-5). The entries on 13, 14 and 24 April 1943 in Ding's Diary reveal that the experimental subjects who were used in this experimental series were actually artificially infected with typhus infected blood and that 21 inmates died in these experiments. (NO-265, Pros. Ex. 287, R. 1136). Moreover, it is established by the affidavit of a defense witness that all of Ding's reports about his experiments went via the Hygiene Institute to Grawitz. (Doc. Mrugowsky Ex. 13, R. 5406, Par. 7 of the affidavit, Mrugowsky Doc. Book, Page 51). Poppendick thus had access to the details of the typhus experiments.

Ding reported on the Buchenwald experiments at the meeting of the Consulting Physicians of the Wehrmacht in May 1943. (NO-923, Pros. Ex. 436, R. 2063). As Grawitz's Chief of Staff, Poppendick was present at this meeting in spite of the fact that he was not a consulting physician of the Wehrmacht. (Poppendick, R. 5557). While Poppendick may not have heard the report itself, since it was delivered to the Section of Hygiene, there can be no reasonable doubt that he heard of it. The defendant Rose raised objection to the character of the Buchenwald experiments. (Rose, R. 6166). A witness for the defendant Rose went so far as to

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testify that from what Rose said, it was to be concluded that he regarded these experiments as murder. (Hoering, R. 6073). He said that concentration camp inmates were used in the experiments. (Hoering, R. 6074). It is incredible that Poppendick should not have heard about such a sensational lecture. Indeed, the lecture could not have been delivered without the knowledge and approval of Grawitz's office. In connection with the denial on the part of Poppendick that he was not informed how Ding carried out his experiments, it is significant that Balchowsky, in his affidavit, lists Poppendick and the defendants Handloser and Genzken and the late Conti as the sponsors of the typhus experiments in Buchenwald. (NO-484, Pros. Ex. 291, R. 1353).

Thus, the proof shows that Poppendick not only "took a consenting part" in the Buchenwald typhus experiments, and "was connected with plans and enterprises involving" their commission, and was a member of an "organization or group connected with" their commission, but also was a "principal in" and "an accessory to" the commission of such crimes. He must therefore be found guilty under the terms of Section 2 of Article II of Control Council Law No. 10.

D. Sterilization Experiments (Indictment, Par. 6 (I))

As to the description and criminal nature of these experiments, reference is made to the Prosecution briefs on the defendants Gebhardt and Brack.

The defendant Poppendick defined in cross examination the term "negative racial policy" in the following way:

"The negative racial population policy concerned all extermination measures in contradistinction to the positive racial population policy.....sterilization which became law in the Third Reich was negative population policy....." (R. 5618-9).

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There is no one in the dock better acquainted with the noxious doctrine of "negative population policy" than Poppendick. In addition to his duties in Grawitz's office, he was chief physician of the Main Race and Settlement Office. In connection with that office, the Judgment of the International Military Tribunal said: The Race and Settlement Office of the SS together with the Volksdeutscher Mittelstelle were active in carrying out schemes for Germanization of occupied territories according to the racial principles of the Nazi Party and were involved in the deportation of Jews and other foreign nationals, (Trial of the Major War Criminals, Vol. I, p. 270). Among other things, this office was concerned with measures to exterminate non-aryan groups, for example, by assisting in the enforcement of regulations forbidding sexual intercourse between Germans and Slavic peoples and by abortions carried out on Eastern workers and Poles.

Poppendick would have us believe that he was concerned only with positive racial policy (R. 5619), but it is apparent that the policy of having more children for "good" Germans and no children for "inferior" peoples cannot be separated. Poppendick certainly knew what the negative population policy was. While he expressly denied during cross-examination that he had knowledge of or in any way participated in criminal sterilization experiments (R. 5621), the evidence proves the contrary.

On 4 June 1941, Poppendick forwarded a list of doctors who were authorized to carry out sterilizations to the defendant Rudolf Brandt. Clauberg is listed among the doctors. The list itself is signed by Grawitz and dated 30 May 1941. (NO-214, Pres. Ex. 168, R. 562). The covering letter, signed

by Poppendick and dated 4 June 1941, reads:

"By order of SS-Brigadefuehrer Dr. Grawitz
I enclose herewith the list of physicians
who are prepared to perform the treatment
of sterility, as requested by Reichsfueh-
rer-SS." (1639-A, Pros. Ex. 475, R. 5628).

Poppendick denied that the list signed by Grawitz (NO-214, supra), which refers to a conference with Himmler on 27 May 1941, was the list he forwarded to Brandt with his letter of June 4th, (NO-1639-A, supra), contending that Grawitz's list is marked "Top Secret". (Poppendick, R. 5629). There was of course no occasion for Poppendick's cover letter to be marked secret when the attachment was so marked. Also the classification "Top Secret" on the document is not typed, but in handwriting and may well have been added later in Himmler's office. Moreover, both documents -- covering letter (NO-1639-A, supra) and list (NO-214, supra) bear the same file number, IV/102/41, which proves in itself that the letter and list belong together and were sent together. The conference with Himmler on May 27, reference to which is made on the list (NO-214, supra), was concerned not with "positive population policy" were discussed but sterilization experiments. This is proved by Grawitz's letter to Himmler, dated 29 May 1941, which reads:

"At a conference on 27th May, '41 in the presence of Herr Professor Clauberg, concerning his new method of sterilization of inferior women without an operation, a regrettable misunderstanding has occurred.

"For developing his method Prof. Clauberg requires the women furnished for this purpose to be in his own hospital in Koenigsbuecke or in the vicinity, as the method is still being worked out, as Prof. Clauberg needs his own clinical apparatus, just procured for the purpose, on the spot, and as he must be there, personally, for operations in case of incidents.

"The matter has again been discussed in all

details with Prof. Clauberg and it resulted that, under the prevailing circumstances, the carrying out of the experimental work in Ravensbrueck is out of question.

"Taking into account the exorbitant significance which such a method would have for a negative population policy and its results therefore to be of importance to support the establishment of a flawless method with all means; therefore, I beg to submit the proposal, Reichsfuehrer, to furnish Prof. Clauberg with a proper research institute in or around Koenigshuette and to attach to it a women concentration camp for about 10 persons.

"Provided that you consent I beg to authorize me to discuss the matter further in your name with SS-Gruppenfuehrer Pohl and SS-Brigadefuehrer Gluecks." (NO-1639, Pros. Ex. 474, R. 5625).

That this letter and Poppendick's note to Brandt refer to the same subject is further proved by the fact that the file number these two documents received in the office of the defendant Rudolf Brandt are identical, "332/13" (R. 5635) and were both marked "Secret". (R. 5636). Moreover, Poppendick's letter of 4 June 1941 carries the file number "IV/102/41" while Grawitz letter of 29 May on the Clauberg conference was entered in the secret diary as "IV/98/41".

On 7 and 8 July 1942 another conference was held on the sterilization of Jewesses attended by Himmler, Gebhardt, Gluecks, and Clauberg. Concentration camp inmates of Auschwitz were made available to Clauberg and he was urged to report as soon as possible so that measures could be taken "for the practical realization of the sterilization on a larger scale". (NO-216, Pros. Ex. 170, R. 565; NO-215, Pros. Ex. 172, R. 568). On 10 July 1942 Clauberg was ordered to report to Himmler on how long it would take to sterilize one thousand Jewesses by his method. (NO-213, Pros. Ex. 171, R. 567). On 7 June 1943 Clauberg was able to report that,

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on the basis of his experiments, it would be possible to sterilize several hundred, if not even a thousand, per day by his method. He stated that sterilization could be "performed by a single injection made from the entrance of the uterus in the course of the usual customary gynaecologic examination..." (NO-212, Pros. Ex. 173, R. 570). Further proof that Clausberg carried out sterilization experiments on Jewesses in Auschwitz is found in his letter of 6 August 1943 to the defendant Rudolf Brandt in which he requests a second X-ray installation for his experimental work in Auschwitz. (NO-210, Pros. Ex. 174, R. 572).

Moreover, the proof has shown that sterilization experiments were carried out in many concentration camps on a substantial scale. (See Prosecution briefs on Gebhardt and Brack.) The execution of these experiments lay in the hands of SS doctors, who were all subordinated to Grawitz, the highest ranking medical officer in the SS. It is impossible to believe the contention of the defendant Poppendick that he, as Chief of Grawitz's Personal Staff, was ignorant of these sterilization experiments. Poppendick was a "member of an organization or group connected with" the commission of the sterilization experiments and he personally supported Clausberg's criminal experiments.

E. Sulfanilamide Experiments (Indictment, Par. 6 (E))

As to the description and criminal nature of these experiments, reference is made to the Prosecution's brief on the defendant Gebhardt.

Poppendick denied in direct and cross examination that he obtained knowledge of the sulfanilamide experiments. He admitted, however, having been present at the lectures of

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Gebhardt and Fischer at the Third Meeting East of the Consulting Physicians at the Military Medical Academy, Berlin, held on 24 - 26 May 1943. (Poppendick, R. 5572, NO-228, Pros. Ex. 206, R. 767). He especially denied that he ever had the opportunity to read or see a report or preliminary report from Gebhardt to Grawitz on these experiments (Poppendick, R. 5617). The preliminary report of Gebhardt dated 29 August 1942, which was submitted to Poppendick in cross examination, shows clearly that this statement is untrue. The copy of this report was certified correct by Poppendick for Grawitz (NO-2734, Pros. Ex. 473, R. 5622, p. 6 of the document) and Poppendick had to admit that the signature on this document was his. (Poppendick, R. 5618). This report shows on its face that sulfanilamide experiments were carried out on inmates of the Ravensbrueck Concentration Camp. It is made clear that gas gangrene was artificially provoked, that wood shavings, edema malignum and earth were used to create infections similar to battle wound infections, and that some of the experimental subjects remained untreated for control purposes. In short, this report gives a complete picture of the sulfanilamide experiments carried out by Gebhardt. In view of the clear and unequivocal contradiction between the testimony of Poppendick and this document submitted to him in cross examination, his testimony as a whole cannot be viewed as credible.

Moreover, complete reports were submitted to Grawitz's office on these experiments and there was continuous correspondence between Gebhardt and Grawitz. (Gebhardt, R. 4107). Poppendick had ready access to this material. Gebhardt and Fischer gave lectures on these experiments at the Third Meeting East of the Consulting Physicians at the Military Medical

Academy, Berlin, held from 24 to 26 May 1943. Poppendick admitted having attended this meeting and having heard Gebhardt and Fischer speak. (Poppendick, R. 5572). Gebhardt testified to the effect that he was opposed to any camouflage and that he was anxious to bring the whole subject of these experiments into the open. When he gave the introduction to the lecture, he expressly stated that the experiments had been carried out on human beings. (R. 4109). Gebhardt testified he does not definitely remember whether he said the experimental persons were concentration camp inmates. The defendant Fischer has stated that this was made clear. (NO-472, Pros. Ex. 234, R. 941; cf. Fischer, R. 4365). In any event, Poppendick knew it from the written report of 29 August 1942 by Gebhardt. The clinical details of the experiments were explained in great detail by Gebhardt and Fischer. The meeting was told that approximately 60 persons had been experimented on, that the infections had been artificially produced, that various drugs were used in treating the infections, that surgical treatment was used, and that three persons died as a result. (Gebhardt, R. 4109-10). Every detail was explained.

Gebhardt testified that one of the purposes of his frank report to the Meeting of Consulting Physicians was to put the justification for these experiments in issue. He said that: "I insisted that a completed experiment would only have its justification given to it if subject to a clear description of its progress. One would submit it to a source up to then not concerned with the matter at all, the entire picture together with the question: are the conclusions which I am now making, and is what I am introducing for thousands of SS men -- is that right or is that wrong? In which connection,

of course, I also had the personal wish that my name should have the protection of experts and that the State should be forced to recognize publicly the emergency in which I found myself." (R. 4115).

This evidence proves beyond a reasonable doubt that Poppendick had knowledge of and supported the sulfanilamide experiments carried out in the Ravensbrueck Concentration Camp.

F. Sepsis (Phlegmone) Experiments

The particulars of these experiments as set forth in the Prosecution brief on the defendant Gebhardt are incorporated herein by reference.

That Poppendick had knowledge of these experiments is proved by the fact that Grawitz's report on these experiments (NO-409, Pros. Ex. 249, R. 979) was attached, together with the preliminary report of Gebhardt on the sulfanilamide experiments which was certified correct by Poppendick (NO-2734, supra), to a cover letter by Grawitz to Himmler dated 7 September 1942. The cover letter reads as follows:

"Subject: 1. Experiments by SS-Brigadefuehrer Gebhardt on the Combating of Gas-Generene
2. Experiments on the Treatment of Sepsis by bio-chemistry.

Enclosures: -2-X

To the Reichsfuehrer-SS H. Himmler
Berlin

Reichsfuehrer!

Attached please find a provisional report by SS Brigadefuehrer Prof. Dr. Gebhardt on his clinical-surgical experiments at Ravensbrueck Concentration Camp, furthermore a concluding provisional report on experiments on the bio-chemical treatment of sepsis as performed at Dachau concentration camp." (NO-2734 supra).

The report on bio-chemical treatment of sepsis, is dated 29 August 1942, and carries the file number 738/IV/42, although the English translation erroneously shows the date as 29 August 1943. Furthermore, Gebhardt's handwritten notation on the sepsis report reads "Ravensbrueck 3/9/42". Thus, there can be no doubt that the report mentioned under No. 2 in the cover letter is Grawitz's report on the sepsis experiments in Dachau, (NO-409 supra). The report states that eight cases of sepsis were mostly artificially provoked and that all of them died. Two other experimental subjects also died. Grawitz, by no means discouraged by the fatalities, ordered the experiments continued. (NO-409, Pros. Ex. 249, R. 981). That the experiments were continued is proved by the case history of a subject artificially infected with sepsis in Dachau on 10 November 1942. (NO-994, Pros. Ex. 251, R. 985).

G. Polygal Experiments

As to the description and criminal nature of the Polygal experiments, reference is made to the Prosecution brief on the defendant Gebhardt.

The diary of the defendant Sievers for the year 1944 reveals that Poppendick took part in a conference with Grawitz and Dr. Ploetner on the 23rd May of that year. The effect of this conference was that Ploetner took over the research station of Roscher. On the 8 September 1944 Poppendick made arrangements for Dr. Ploetner to remain at the disposal of the Reich Research Council (3546-PS, Pros. Ex. 123, R. 382, entries of 23 May and 8 September). That Ploetner was in charge of the Polygal experiments is proved by the entries of 29 June and 31st March, which state that Ploetner is to

take

take over the control of experiments since Rascher is not in the position to do so, and further, of the entries of 14 April, 18 May, 1st June and 6 October of Sievers' Diary. On 23 October Sievers informed Poppendick directly that Ploetner was to take over biological research (3546-PS supra).

Thus it is proved that Poppendick had knowledge and encouraged the Polygal experiments in the Concentration Camp Dachau, during the course of which experimental subjects were shot. (NO-438, Pros. Es. 240, R. 956; NO-1424, Pros. Ex. 462, R. 4773; Stoehr, R. 587; Gebhardt, R. 4240-1).

H. Malaria Experiments (Indictment, Par. 6 (C))

Poppendick was also connected with the criminal malaria experiments conducted by Dr. Schilling in Dachau. These experiments are described in the Prosecution's brief against Rose.

Dr. Ploetner was one of the chief collaborators of Schilling in his experiments. (3546-PS, Pros. Ex. 123, R. 382, entry for 1 June; Rose, R. 6339). The Sievers diary for 1944 proves that on 23 May 1944 a conference on Ploetner's work in Dachau was held. Grawitz, Poppendick, Sievers, and Ploetner took part. Rascher had recently become involved in a scandal concerning the kidnapping of children which he claimed as his own. Ploetner was charged with the management of Rascher's division in the Ahnenerbe on the same day of the conference with Grawitz and Poppendick. (3546-PS, supra). On 31 May 1944, Grawitz sanctioned the continued collaboration between Ploetner and Schilling. (See also the entries for 30 January, 22 February, 24 August and 8 September). Moreover, on 23 October 1944, Sievers conferred with Poppendick concerning Ploetner's taking over the bio-

logical examinations in Dachau. (3546-PS, supra).

Poppendick admitted having obtained knowledge of Schilling's experiments in Dachau through Grawitz. (R. 5567). These experiments continued until the end of the war and, of over 1000 involuntary subjects used, a substantial number died. (NO-856, Pros. Ex. 125, R. 386).

I. Sea Water Experiments (Indictment, Par. 6(G))

The sea water experiments are described in the Prosecution's brief against Schroeder.

Poppendick was a member of an organization or group (Grawitz's) connected with the commission of these experiments. Grawitz expressly approved them. (NO-179, Pros. Ex. 135, R. 485). Moreover, Floetner, with whose work Poppendick was closely connected (supra), made available the working space where the experiments were carried out. (3546-PS, Pros. Ex. 123, R. 382, entry for 20 July 1944).

J. Freezing Experiments (Indictment, Par. 6(B))

For a detailed description of the freezing experiments, reference may be made to the Prosecution's brief against Sievers.

On 13 January 1943, Rascher conferred with Grawitz and the defendant Poppendick concerning the freezing experiments. Rascher gave a report on the freezing experiments with water and also outlined the experiments with dry freezing. Grawitz pointed out that when Rascher was transferred to the Witten SS he would be subordinated to Grawitz and all reports should be submitted to him. He said that it was "an unbearable situation to have a non-physician, such as Standartenfuhrer Sievers, inform me on medical matters...." Poppendick stated that: "I already had to ask Standartenfuhrer Sievers several times to come to me to receive in-

formation. In the long run all medical matters wind up with us anyway." Grawitz went on to criticize a memorandum which Roscher had written on the treatment of dry freezing on the ground that Roscher's experiments with wet freezing did not necessarily apply and that too few dry freezing experiments on human subjects had been performed. (NO-320, Pros. Ex. 103, R. 338).

This document not only proves Poppendick's participation in the freezing experiments, but also establishes that, as Grawitz's assistant, he was informed on all experiments on concentration camp inmates. He himself stated that all medical matters ended up "with us" and that he had required Sievers to report to him. The only medical information on which Sievers could possibly report were the criminal experiments supported by the Ahnenerbe.

Poppendick admitted that he took part in this conference and that the freezing experiments continued after that date. (R. 5564). On Grawitz insistence at this conference that Roscher's theories be proved by at least 100 dry freezing experiments, Roscher continued his barbarous work. On 17 February 1943, he reported to Himmler on dry freezing experiments on 30 inmates who were forced to remain outdoors naked for 9 to 14 hours in freezing weather. Their hands and feet were frozen white. (1616-PS, Pros. Ex. 105, R. 342). On 4 April 1943, Roscher was able to report additional dry freezing experiments in weather of -6° centigrade.

K. Epidemic Jaundice Experiments (Indictment, P. r. 6 (H))

The epidemic jaundice experiments were initiated by Grawitz on the request of Karl Brandt. On 1 June 1943, Grawitz

witz asked Himmler's consent to the use of concentration camp inmates for these experiments. Deaths were anticipated. (NO-010, Pros. Ex. 187, R. 735). Eight Polish Jews were made available in Sachsenhausen, (NO-011, Pros. Ex. 188, R. 737). Some of the experimental subjects died. (NO-371, Pros. Ex. 186, R. 733). At the time of these criminal experiments, Poppendick had long since been active as an important collaborator of Grawitz.

III. CONCLUSION

Poppendick was a very early member of the SS. The medical service of the SS was his career and he attained the rank of Senior Colonel. He was the closest and most confidential collaborator of Grawitz. He participated in many conferences concerning criminal experiments on concentration camp inmates. He supported such experiments and several were initiated by him.

Poppendick handled the work of Research Department V (Vonkennel) which was financed by Grawitz's office. The incendiary bomb and hormone experiments in the Buchenwald Concentration Camp were initiated by him in cooperation with that department. He received reports on these experiments. He had inmates made available for the hormone experiments. Two experimental subjects died as a result of the hormone experiments.

Poppendick made arrangements, through Bruggowsky, to have typhus experiments conducted by Ding in Buchenwald in order to test a drug developed by Research Department V. He approved a paper by Ding on the typhus experiments to test eridin derivatives during which 21 inmates were killed. He knew that typhus was artificially induced in these ex-

periments.

The criminal sterilization experiments by Clausberg were known to and supported by Poppendick. He certified a preliminary report by Gebhardt on the sulfanilamide experiments. He heard the lectures by Gebhardt and Fischer on these experiments. He also knew of the sepsis experiments in Dachau ordered by Grawitz.

He participated in conferences concerning the work of Floetner in Dachau, who assisted Rascher in the polygal experiments and Schilling in the malaria experiments and who took over Rascher's research station in 1944. He made arrangements for Floetner to receive assistance from the Reich Research Council. The sea water and epidemic jaundice experiments were approved by Grawitz. Space for the sea water experiments was provided by Floetner in Dachau.

Poppendick conferred together with Grawitz and Rascher on the freezing experiments. As a result of instructions issued at that conference, Rascher carried out further dry freezing experiments. Poppendick received reports on other criminal experiments supported by the Ahnenerbe.

The Prosecution submits that the evidence proves that Poppendick was a principal in, accessory to, ordered, abetted, took a consenting part in, was connected with plans and enterprises involving, and was a member of an organization or group connected with the commission of medical experimentation on human subjects without their consent, in the course of which experiments murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts were committed, and that his guilt has been established under Counts I, II, III, and IV of the Indictment.

Kofu

M I L I T A R Y T R I B U N A L N O . I

CASE NO. 1

CLOSING BRIEF FOR
THE UNITED STATES OF AMERICA
AGAINST
GERHARD ROSE

James M. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

For:

Telford Taylor
Brigadier General, U.S.A.,
Chief of Counsel for War Crimes

Nurnberg,
16 June 1947.



INTRODUCTION

It is alleged, in essence, under Count I of the Indictment, that the defendant Rose conspired and agreed with others, pursuant to a common design, to perform medical experiments on involuntary human subjects; under Counts II and III (War Crimes and Crimes Against Humanity, respectively), that he was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experimentation on involuntary human subjects.

The defendant Rose is particularly charged with having participated in the malaria experiments, set forth in Para. 6(D) of the Indictment, and the typhus experiments, set forth in Para. 6(J). In order to simplify the issues, the Prosecution has withdrawn the charge of having participated in epidemic jaundice experiments, as set forth in Para. 6(H) of the Indictment.

I. POSITIONS OF RESPONSIBILITY

The defendant Gerhard Rose has for many years been an expert in tropical medicine.. In 1937, he assumed leadership of the Department of Tropical Medicine of the Robert Koch Institute in Berlin. In 1943, he became Vice-President of the Robert Koch Institute, but as a practical matter he did not exercise any function in that office since his service with the Luftwaffe consumed all his time. (R.6085). He joined the National Socialist Party in 1930. (R.6087).

On 26 August 1939, he assumed the position of Consulting Hygienist to the Medical Inspector of the Luftwaffe, who, at that time, was Erich Hippke. (R.6092). He held that position until the end of the war and ultimately rose to the rank of Generalarzt, or Brigadier General in the Reserve. (R.6094). Tropical hygiene became very important as the war expanded to Africa, Italy, the

Balkans, Greece, Crete and Russia. (R.6095). From 1941 on, Rose spent all his time on Luftwaffe duties. (R.6094; Rose Doc. 13, Rose Ex. 22, R. 6228).

Rose was the principal consultant to the Medical Inspector of the Luftwaffe and to his whole office. (R.6096, et seq.). Schroeder, Chief of the Medical Service of the Luftwaffe, stated that Rose had to be informed of all research work which Consulting Hygienists, such as Haagen, conducted by order of the Luftwaffe. (NO-449, Pros. Ex. 130, R.471). Schroeder confirmed this statement during his testimony before the Tribunal. (R.3609). Rose's position, vis-a-vis, the Chief of the Medical Service of the Luftwaffe, is to be distinguished from the position of Consulting Hygienists attached to Air Fleets, such as that of Haagen, who was attached to the Air Fleet "Reich". Rose received reports from Consulting Hygienists attached to the Air Fleets. (Rose Doc. 7, Rose Ex. 7, R. 6108).

Whether or not Rose could issue orders to Consulting Hygienists of Air Fleets, or whether he had a command function of any type, is a matter of little importance. It is not disputed that Rose was the adviser to the Chief of the Medical Service of the Luftwaffe on hygiene questions. He was, thus, the most important consulting hygienist in the Luftwaffe and was the overall expert on hygiene problems. Significant hygiene questions throughout the Luftwaffe came to his attention. By virtue of his position, it cannot be denied that he had great influence with the Chief of the Medical Service of the Luftwaffe insofar as hygiene matters were concerned.

From 1944 until the end of the war, Rose was also Medical Consultant to the defendant Handloser, as Chief of the Medical Services of the Wehrmacht. He was also medical adviser to Dr. Conti in matters pertaining to tropical diseases. Conti was Under Secretary of State for Health and Chief of the Civilian Medical Service, to which the

Robert Koch Institute was subordinate. (NO-673, Pros. Ex. 15, R. 108).

II. PERSONAL PARTICIPATION IN CRIMINAL EXPERIMENTS.

A. Malaria

With respect to the malaria experiments, two questions are presented for consideration: first, whether the malaria experiments were performed in a criminal manner, and second, whether the defendant Rose was connected with such experiments.

That the performance of the malaria experiments in the Dachau Concentration Camp from February 1942 until the end of the war were criminal has not been seriously disputed by any of the defendants. In December 1941, while working in Italy, Dr. Klaus Schilling met Conti who became interested in supporting further work by Schilling on malaria problems. A meeting was arranged with Himmler who gave his permission for experiments to be carried out in the Dachau Concentration Camp. Schilling began his work in Dachau in February 1942 and continued his experiments until the end of the war. He was primarily concerned with discovering a way of immunizing persons against malaria. During the course of the experiments approximately 1200 concentration camp inmates were infected with malaria either by being bitten by infected mosquitos or by injections of malaria-infected blood. After having been infected, the prisoners were treated with various drugs, including quinine, neo-salvarsan and pyramidon. Most of the experimental subjects were non-German nationals. Of the experimental subjects infected, approximately thirty died as a direct result of the experiments and an additional 300 to 400 died as a result of complications.

The above facts are established by the Review of the General Military Commission in the case of the U.S. against Weiss, et al, held at Dachau, Germany. (NO-856, Pros. Ex. 125, R.386). Klaus Schilling was a defendant in that case and was convicted and sentenced to death. In an affidavit submitted in evidence before that Tribunal, dated 30 October 1945, Schilling admitted that the experimental subjects were not volunteers.

One of the assistants to Schilling in his experiments at Dachau was Dr. Ploetner, who was a member of the Institute for Military Scientific Research of the Ahnenerbe under the defendant Sievers. Sievers conferred with Ploetner regarding the malaria experiments and received reports from him. (3546-PS, Pros. Ex. 123, R. 382 ; entries for 30 January, 22 February, 23 May, 31 May, 1 June, 24 August). Rose stated that he learned that Ploetner was a collaborator of Schilling through an inquiry to the Journal of Tropical Medicine in the year 1944. Ploetner had published an article in that magazine and it had come to Rose's attention. (R. 6339).

The witness, August Vieweg, testified for the Prosecution and substantiated the findings of the Military Commission at Dachau. Vieweg was first subjected to the malaria experiments himself and thereafter served as an inmate-assistant in the malaria ward. Vieweg testified that Schilling experimented on approximately 1100 inmates, including Germans, Poles, Russians and Yugoslavs. Among the Russian inmates used were prisoners of war. Seven or eight of the subjects died in the malaria station, primarily as a result of pyramiden poisoning. (R.428). He also testified that an additional sixty inmates died, to his knowledge, after having been transferred from the experimental station. He further stated that none of the inmates

volunteered, that he personally did not, and that the experimental subjects were not freed as a result of undergoing the experiment. The original infection card from the files of Schilling in Dachau, showing the date of infection of the witness, Vieweg, with "Strain Rose" was introduced. (NO-983, Pros. Ex. 128, R. 467).

See also the testimony of Heinrich Stoehr, (R. 584-5).

The defendant Rose participated in the criminal experiments of Schilling by furnishing him material with which to carry out the experiments. This material was furnished by Rose with knowledge of facts which would have led any reasonable man to the conclusion that Schilling was carrying out criminal experiments. Rose had known Schilling for many years and succeeded him as Chief of the Department for Tropical Medicine in the Robert Koch Institute. Moreover, Rose, by his own admission, was an adviser to Dr. Conti who arranged for Schilling to carry out his experiments in Dachau. It is highly unlikely that such an arrangement would have been made without consulting Rose.

Rose furnished Schilling with malaria spleens for his experiments in Italy during the year 1941, a fact which Rose denied on the stand until contradicted by his letter to Schilling, dated 3 February 1941. (NO-1756, Pros. Ex. 486, R. 6411). Rose continued to furnish infection material to Schilling after he set up his experimental station in Dachau. Rose and his witnesses admitted that anopheles eggs were sent to Schilling in 1942, but Rose, after that occasion, issued instructions that no more material was to be sent to Schilling because he did not agree with his research aims. (R. 6415). On 4 April 1942, Schilling wrote to Rose, asking for the "Strain Rose" to continue his experiments. This letter bears the dateline "Dachau, 3K, Hospital for Inmates", and it was initialled by Rose on 17 April 1942. Schilling

stated that he would be "very thankful.....for this new support of my work." (Emphasis added). That Rose complied with this request of Schilling's is established because the witness Vieweg was himself infected with "Strain Rose".

On 5 July 1943, in a letter, also with the notation "Dachau, K3, Malaria Station", Schilling thanked Rose for a consignment of atroparvus eggs and accepted Rose's offer to send him his excess eggs. This letter mentions the "Prisoner August", who obviously was the witness, August Vieweg. This letter was initialled by Rose on July 27. (NO-1753, Pros. Ex. 488, R. 6418). On the same date Rose replied to Schilling's letter, advising him that at the next favorable opportunity, a shipment of anopheles eggs would be made to him.

It is impossible to believe that Rose did not know what work Schilling was doing with material furnished to him by Rose. It cannot be disputed that Rose knew that Schilling was carrying out malaria experiments on human beings. It cannot be disputed that Rose knew that Schilling was working in the Dachau Concentration Camp. Rose was not a simple breeder of anopheles eggs in the business of supplying all comers. He had long since become aware of the fact that experiments were being carried out on concentration camp inmates without their consent. He knew this early in 1942, when he visited the Buchenwald Concentration Camp and observed the typhus experiments by Dr. Ding. In May of 1942 he, himself, requested Krugowsky to have experiments performed by Ding in Buchenwald with a vaccine which he had obtained from Prof. Ruge in Bucharest. (See below).

In October 1942, Rose was present at the "Cold" Congress of the Luftwaffe in Nurnberg and heard the lectures by Holzlochner and Rascher on the freezing experiments in Dachau. These lectures made it quite clear that the experiments were

performed on concentration camp inmates and that some of them had died as a result. He admitted that he talked to Holzloehner after his lecture in Nurnberg and was told of his "spiritual difficulties" in participating in the experiments at Dachau. Holzloehner said, "Never in his life would he want such an order again." (R.6470).

With this knowledge, it is impossible to conclude that Rose did not know what Schilling was doing. A man who himself participated in experiments on concentration camp inmates without their consent cannot be heard to say that he did not know that another man to whom he was furnishing infection material for malaria experiments was doing the same thing. The Prosecution is not required to show that Rose conducted a poll of the experimental subjects used by Schilling. Nor can a man blindfold himself to the facts at his disposal and then seek to escape responsibility by pleading ignorance.

B. Typhus Experiments at the Natzweiler Concentration Camp.

The documentary and testimonial proof of the Prosecution tells a complete story of the crimes committed during the course of the typhus experiments at the Natzweiler Concentration Camp. The experiments themselves were carried out by Stabsarzt Professor Eugene Haagen, Consulting Hygienist to the Airfleet Reich and Director of the Hygiene Institute of the University of Strassbourg. The purpose of these experiments was substantially the same as those at Buchenwald, that is the discovery and production of an effective typhus vaccine. Following the attack on Russia, typhus became a serious threat to the Wehrmacht. Before the war, typhus was a disease of no significance in Germany. Had it not been for the aggressive war launched by the Third Reich, no occasion would have arisen for the

frantic efforts to develop typhus vaccines and the carrying out of criminal experiments on involuntary human subjects in connection therewith (Rose, R.6394).

As early as June of 1943, Rose was corresponding with Haagen concerning the establishment of vaccine production at the Hygiene Institute of the University of Strasbourg (NO-305, Pros. Ex. 295, R.1385). In his letter of 9 June, 1943, to Haagen, Rose stated that he was requesting the Luftwaffe Medical Inspector to urge the Chief of the Medical Service of the Wehrmacht, the defendant Handloser, to order the production of typhus vaccine for all armed forces in the eastern area (NO-306, Pros. Ex. 296, R.1387). Handloser controlled the distribution of typhus vaccines (Rose, R.3690).

On 4 October 1943, Haagen wrote to Rose about his plans for vaccine production. In the same letter he discussed a report sent by Rose on the Ipsen vaccine from Copenhagen and stated that he also had studied a similar murine vaccine. He continued:

"I already reported to you the numeral results of experiments on human beings. The serum titer is considerably higher, also after a single vaccination, in comparison with three times vaccination with deactivated vaccines. I regret that it was not possible so far to perform infection experiments on the vaccinated persons; I requested the Ahnenerbe of the SS to provide suitable persons for vaccination, but did not receive an answer as yet. We are now performing a further vaccination on human beings; I shall report later about the result. I guess we will then have reached the point to be able to recommend our new vaccine to be introduced, for the time being without infectious experiments".

After asking Rose to attempt to obtain more personnel for him, Haagen concluded:

"If we can get experimental subjects from the SS for test vaccinations, it would be an opportunity to test the liver vaccine as well on its anti-infectious effect. I would then suggest that our material will be used parallel with the Ipsen tests.

"We will be able to discuss all these matters in Vienna". (NO-2874, Pros. Ex. , R.).

Thus, before infection experiments had been conducted, Rose was put on notice of exactly what Haagen planned to do. He was promised further details in a scheduled meeting with Haagen in Vienna. A conference of the German Society for Internal Medicine was held in Vienna in October 1943. (Handloser, R.3043). This document completely explodes Rose's fabrication that "infection" really means vaccination with attenuated avirulent vaccine. Haagen had already performed vaccinations, and he was proposing to recommend the vaccine without infection experiments because the SS had not yet furnished inmates for these experiments. The testimony of the witness Georg Hirtz proves that Haagen had tested his vaccine at Schirameck, a sub-camp of Natzweiler, in the Summer of 1943. Approximately 20 Polish inmates were used in these experiments and the vaccine was apparently so virulent that 2 of the experimental subjects died (R.1293). Haagen had apparently further perfected the vaccine by the time of his letter to Rose in October 1943.

That Rose knew that Haagen was planning infection experiments with virulent typhus virus is further proved by the reference in the letter of 4 October 1943 to the proposed test of the liver vaccine (Ipsen) as to its anti-infectious effect. This Ipsen vaccine was a dead vaccine, yet it too was to be tested by after-infection. And this was the result of Rose's own suggestion in a report on the Ipsen vaccine sent to Haagen in September 1943. (Rose Document 22, Rose Ex. 21, R.6216). There can be no talk of tolerability tests with the Ipsen vaccine as it had already been tested as to its reaction according to Rose's own report.

Haagen made his request for inmates to be experimented on to the defendant Sievers, as Business Manager of the Ahnenerbe, in a letter dated 16 August 1943. Sievers agreed to this request on 30 September 1943 (NO-120, Pros. Ex. 297, R.1387), but this had obviously not yet been received when Haagen wrote to Rose on 4 October 1943. One hundred prisoners were transported to the Natzweiler Concentration Camp early in November 1943. Of these, 18 died during transport, and the remainder were in such a pitiful state of health that Haagen found them worthless for his experiments. He requested additional prisoners in good health through Dr. Hirt of the University of Strassbourg, who was a member of the Ahnenerbe (NO-121, Pros. Ex. 293, R.1369). Rose admitted on direct examination that these experimental subjects could hardly have been volunteers since there obviously was a pre-selection and transport from another camp to Natzweiler, where the experiments were to be performed (R.6289).

No one could read a report on this criminal transport of 100 men for a medical experiment who were in such a weakened condition that 18 died and only 12 could perhaps be brought back to normal health by two to three months special care without realizing full well the horrors of a German concentration camp. And this matter was reported by Haagen to Rose on 29 November 1943 (NO-1059, Pros. Ex. 490, R.6427), although Rose expressly denied knowledge before the document was put to him on cross examination. (R.6425). Only a few weeks before, Rose had talked to Holzloehner (see supra). By this time Rose had himself already requested and had infection experiments carried out to test the Bucharest vaccine in Buchenwald. And only a few days later he was to request experiments in Buchenwald on the same Ipsen vaccine from Copenhagen mentioned in

Haagen's letter of 4 October 1943 (see infra). In the Haagen letter of 29 November 1943 he submitted a report to Rose on his dehydrated typhus vaccine, and stated that he was asking the SS for an additional 100 prisoners since the first group was unsatisfactory.

On 13 December 1943 Rose wrote to Haagen in reply to a letter of 8 December, which is not in evidence. Rose said:

"I regard it as unnecessary to make renewed special request to the SS Main Office in addition to the request you have already made. I request that, in procuring persons for vaccination in your experiment, you request a corresponding number of persons for vaccination with Copenhagen vaccine. This has the advantage, as also appeared in the Buchenwald experiments, that the test of various vaccines simultaneously gives a clearer idea of their value than the test of one vaccine alone". (NO-122, Pros. Ex. 298, R.1388).

This is not the letter of a man who was exercising no supervision of Haagen's experiments. He in fact told Haagen what to do - test the Copenhagen vaccine (Ipsen) in a serial experiment on prisoners. And that had to be an infection experiment as there was no other reason to test the Ipsen vaccine. As set forth above, its tolerability on human beings had already been tested.

That the additional 100 inmates were experimented on by Haagen with virulent typhus is clear. On 9 May 1944, Haagen wrote to Hirt enclosing a paper on his experiments with the dehydrated typhus vaccine (NO-123, Pros. Ex. 303, R.1396). He noted that this report had been sent to the Chief of the Medical Service of the Luftwaffe. Haagen noted that:

"It has been possible to produce a vaccine which provides not only an anti-toxic immunity, but also a definite anti-infection immunity which is of particular practical significance".

Anti-toxic immunity is that characteristic of the vaccine which alleviates the effects of the disease, while anti-infection immunity is that property in the vaccine which entirely prevents the disease. These characteristics obviously only could have been determined by artificially creating typhus in the experimental subject with a virulent virus. Haagen was no longer interested merely in testing the tolerance of the experimental subject to the vaccine. By this time he was also testing for anti-infection immunity as the letter clearly states. These experiments were obviously carried out on the 100 concentration camp inmates obtained by Haagen early in 1944. This is further evidenced by the fact that in this same letter of 9 May 1944 Haagen requests Hirt to supply him with an additional 200 concentration camp inmates.

Further light on what happened to these 100 experimental subjects is given by the letter of July 7, 1944 to Haagen, commenting on his report of 8 May 1944. (NO-128, Pros. Ex. 307, R.1402). This letter was signed by Luxenburger, but Rose admitted having read the report of Haagen of 8 May 1944, and he also stated that his comments on the report were more voluminous than those set out in the instant letter (R.6291). Rose knew that the letter was to be sent. This letter objects to Haagen's report on the ground "that the presentation of the infection results in diagrams 1 and 2 differs from the usual presentation of vaccine results concerning typhus and makes it more difficult for the reader to evaluate". Here is a clear distinction between infection and vaccination, and it again refutes Rose's efforts to torture the documents into meaning vaccination with an avirulent vaccine. This document proves that after-infections were performed on the 100 experimental subjects.

Moreover it mentions control persons. If simple compatibility tests with the vaccine were being performed, there obviously would be no need for control persons. In such tests one is interested only in the reaction to the particular vaccine. Haagen had conducted compatibility tests with this vaccine at least as early as the middle of 1943, and we are here dealing with the experiments carried out early in 1944.

The letter of 29 August 1944 from Kahnt, Chief of Staff to the defendant Schroeder, to Haagen also proves that the 100 experimental persons were subjected to infection with virulent typhus virus. (NO-131, Pros. Ex. 309, R.1404). This letter makes reference to a report by Haagen of 21 June 1944 which obviously again refers to the experiments carried out on the group of 100 inmates, since the request for 200 concentration camp inmates by Haagen on 9 May 1944 had not been complied with by 27 June 1944. (NO-127, Pros. Ex. 306, R.1401). Kahnt advised Haagen that the experiments dealing with the dehydrated typhus vaccine were to be continued and 4,000 Reichmarks were put at his disposal. He then asked Haagen whether it could be assumed that the typhus epidemic raging at Natzweiler at that time (August 1944), was connected with the vaccine research. There obviously would be no occasion to ask such a question unless it was known that Haagen was carrying out infection experiments with virulent typhus virus.

Rose attempted to explain this inquiry by stating that it was his fear that the avirulent typhus vaccine being used by Haagen might have become highly virulent (R.6294). This explanation is more than ridiculous because by Rose's own admission Haagen had already reported that no sickness had occurred in his vaccinated subjects. Rose reiterated that there were no fatalities in vaccinations

with the avirulent murine vaccine or with the avirulent rickettsia prowazeki vaccine (R.6292). It is patently impossible for an avirulent vaccine which has caused no typhus sickness in the vaccinated subject to somehow bring about a typhus epidemic. It can only be concluded that Haagen was carrying out infection experiments with virulent typhus virus, that this fact was well known to Rose and to the Medical Service of the Luftwaffe, and that after the outbreak of a typhus epidemic in Natzweiler where the experiments were performed, Rose was inquiring if the epidemic had been caused by Haagen's infection experiments. Kahnt's letter of 29 August concludes by admonishing Haagen for having failed to mark his report on 21 June 1944, in which the experiments at Natzweiler were detailed, as secret.

It should be finally noted in connection with this exhibit that the Luftwaffe was supporting Haagen's research work on typhus up until the time Strassbourg fell to the Allies in September 1944. It is quite beside the point that Haagen may also have been supported financially by the Reich Research Council, as appears from certain of the documents. While the Reich Research Council is clearly implicated in Haagen's criminal experiments, this in no way exculpates the defendants Schroeder, Rose, and Becker-Freyseng, who issued research assignments to Haagen, afforded financial support to him, and received reports from him.

The last series of experiments by Haagen with which we are here concerned was that carried out on 200 concentration camp inmates requested by Haagen on 9 May 1944, which was referred to above. In a further letter to Hirt dated 27 June 1944, Haagen expressly stated that infection experiments would be carried out. He said:

"However, in the subsequent inoculations with virulent typhus which are to be made for the purpose of testing the protective vaccine, one must count on sickness primarily in the control group which has not received a protective vaccination. These after-inoculations are desirable in order to establish unequivocally the effectiveness of the protective vaccines. This time 150 persons will be used for the protective vaccine and 50 for the control inoculations". (NG-127, Pros. Ex. 306, R.1401).

Even the defendant Rose found this letter very difficult to explain away. By his own admission he could only engage in suppositious argument.(R.6295). Hirt passed on this request of Haagen's, originally made on 9 May 1944, to the defendant Sievers, who in turn addressed a letter to Oswald Pohl, Chief of the Economic and Administrative Main Office of the SS which had jurisdiction: over all concentration camps (NO-008, Pros. Ex. 304, R.1398).

However, we need not rely exclusively on the documents. The testimony of the witness Edith Schmidt, an employee of Haagen, establishes beyond controversy that these 200 concentration camp inmates were used in infection experiments by Haagen in the Natzweiler concentration camp. She testified that Haagen was working with a dried vaccine produced from rickettsia prowazeki and egg yolk culture; that Haagen cultivated virulent typhus virus in his laboratory at Strassbourg in the brains of guinea pigs; that part of the experimental prisoners in Natzweiler were vaccinated and then infected with the virulent virus, and that the other part, the control persons, were infected without having been previously vaccinated; that she saw the notes on these experiments prepared by Miss Grodel, the assistant to Haagen; that she was able to ascertain that 150 - 200 inmates were experimented upon, that approximately 50 of the experimental subjects including control persons died, and that persons of all nationalities were used as experimental subjects,

with Gypsies predominating (R.1370-1). To the best of Miss Schmidt's recollection, these experiments took place in the Spring or Summer of 1944. It seems quite clear from the documents that they must have been performed in July 1944. The defendant Rose's only comment on this testimony was that Miss Schmidt was a morphine addict. Be that as it may, it seems rather apparent that Rose at least had a passing familiarity with this lady in order to make such a statement.

It is quite possible that the letter from Kahnt to Haagen dated 29 August 1944 referring to the epidemic at Natzweiler was in connection with this last series of experiments performed by Haagen (NO-131, Pros. Ex. 309, R.1404). In any event at that time the Luftwaffe was still supporting the research by Haagen. Indeed, the documents contained in Prosecution Document Book No. 12 all show that Haagen was a Consulting Hygienist to the Airfleet Reich from 1942 until the end of the war, and that he was continuously supported during all of that period by the Medical Service of the Luftwaffe. By April 1944 Haagen's plans were well advanced to set up a production station for typhus vaccine for the Wehrmacht at the Hygiene Institute of the University of Strassbourg. (NO-310, Pros. Ex. 318, R.1419).

The only defense offered to the evidence of the Prosecution on the Haagen experiments was that put up by the defendant Rose. Reduced to its simplest terms, Rose asks the Tribunal to hold that "infection" really amounted to nothing more than vaccination with an avirulent typhus vaccine. This contention is completely refuted by the documentary and testimonial evidence outlined above. Moreover, Rose himself repeatedly drew a clear distinction in his testimony between infection and vaccination (R.6172-3)

The documents themselves spell out that distinction quite clearly. No refined question of interpretation is presented to the Tribunal. The testimony of the witnesses Edith Schmidt and Georg Hirtz is convincing and is substantiated to a greater or lesser degree by the testimony of Olga Eyer (R. 1755, et seq), Ferdinand Holl (R. 1054-9), Henri-Jean Grandjean (R. 1103-5), and the affidavit of Dr. Victor Eugene Schuh. (NO-335, Pros. Ex. 314, R. 1413). This evidence cannot be overcome by the testimony of a defendant who was repeatedly impeached during the course of cross-examination (supra and infra).

C. Typhus Experiments in the Buchenwald Concentration Camp.

The criminality of the typhus experiments performed in the Buchenwald Concentration Camp by Dr. Ding-Schuler, primarily under the supervision of the defendant Mrugowsky, as Chief of the Hygiene Institute of the Waffen SS, has been dealt with at length in the brief on Mrugowsky, and need not be repeated. We are here concerned only with the participation of the defendant Rose in these experiments.

Rose has never denied that he visited the typhus station in Buchenwald in the early part of 1942. (R. 6434). He stated that he went there on an inspection with Professor Gildemeister of the Robert Koch Institute. He observed the 145 inmates who had been infected with virulent typhus virus. (R. 6436). He looked at the fever curves of these inmates. He further testified that both before and after this visit he was morally opposed to the experiments. He asserted he told Gildemeister in effect that the Robert Koch Institute might as well set up a department for executions. (R. 6407).

The Ding Diary establishes the date of Rose's visit to Buchenwald as 17 March 1942. (NO-265, Pros. Ex. 237),

R.1127). The entry for 19 August 1942 concerns the experimental series No. II in which 20 persons were vaccinated after the process of Durano and Giroud, and 20 persons after the process of Combiescu, Zotta and collaborators, produced by Cantacuzino at Bucharest. The Cantacuzino vaccine, the Diary states, was made available by Prof. Rose, who received it from Navy Dr. Prof. Ruge from Bucharest. The 40 persons previously vaccinated, together with 19 un-vaccinated control persons, were infected with virulent typhus virus on 15 October 1942. As a result of this experimental series, 4 of the control persons died.

Rose denied the accuracy of the above entry in the Ding Diary. He denied ever having sent vaccine to Mrugowsky or Ding to have tested in Buchenwald. He denied that Mrugowsky ever asked him for vaccine to be used in typhus experiments or that he ever negotiated with Mrugowsky in that regard. (R.6460). This testimony of Rose was completely contradicted by the offer of Mrugowsky's letter to Rose of 16 May 1942 (NO-1754, Pros. Ex. 491, R.6460). This letter reads as follows:

"The Reich Physician SS and Police has consented to the execution of experiments to test typhus vaccines. May I therefore ask you to let me have the vaccines.

"The other question which you raised, as to whether the louse can be infected by a vaccinated typhus patient, will also be dealt with. In principle, this also has been approved. There are, however, still some difficulties at the moment about the practical execution, since we have at present no facilities for breeding lice.

"Your suggestion to use Olzscha has been passed on to the Personnel Department of the SS Medical Office. It will be given consideration in due course."

Thus the entry in the Ding Diary is fully substantiated. After the submission of this document, Rose admitted in effect

that he did send the Bucharest vaccine to Mrugowsky for testing in Buchenwald (R.6463). It is quite obvious from the context of this letter that Rose had previously asked Mrugowsky, either by telephone or by letter, to include the Bucharest vaccine, which he had received from Ruge, in the criminal experiments by Ding in Buchenwald. Thereafter, Mrugowsky secured the consent of Grawitz, the Reichsarzt SS and Police, and in this letter to Rose asks him to let him have the vaccines. Rose further requested Mrugowsky to determine in Buchenwald whether the louse can be infected by a vaccinated typhus patient. This, of course, would involve an experiment in which the louse in turn would be used in an attempt to infect an un-vaccinated person. Rose further admitted that the reference to Olzscha was an effort to have this man placed in the Hygiene Institute of the Waffen SS under Mrugowsky. Olzscha had been an assistant to Rose and was about to be drafted into the Waffen SS. (R.6463). A note typed on the bottom of this letter by Frau Block, secretary to Rose and a witness before the Tribunal in his behalf, states that Dr. Mrugowsky asked to be called by telephone after Rose's return, that Mrugowsky would not be in Berlin in June, and that his deputy, Dr. Ding, was informed.

This letter proves that a few short weeks following his visit to the typhus station of Buchenwald, and with full knowledge of the character of the experiments being performed there, Rose wilfully initiated the experiments with the Bucharest vaccine in Buchenwald, which resulted in the death of 4 inmates.

Rose testified and called witnesses to prove that he had vigorously objected to the typhus experiments in Buchenwald on the occasion of Ding's report to the meeting of Consulting Physicians of the Wehrmacht in May 1943. The

Prosecution has conceded that Rose made an objection of some sort, whether on scientific or moral grounds. Be that as it may, the proof of the Prosecution has shown that Rose's moral scruples did not deter him from again actively participating in the criminal experiments in Buchenwald. The entry of 8 March 1944 in the Ding Diary deals with experimental series No. VIII, which was suggested by the defendant Rose. Twenty persons were vaccinated with the Ipsen vaccine from Copenhagen, and subsequently infected by the injection of typhus infected blood obtained from "passage persons". Ten inmates were used as controls and were infected without previous vaccination. The entry for 13 June 1944 proves that six deaths results from these experiments, three of whom had been vaccinated and three of whom were controls. This entry was put to the defendant Rose on cross examination, and he again denied the accuracy of the entry (R.6458, 6463). Rose denied that he sent the Copenhagen vaccine to Mrugowsky, or Ding, for testing in Buchenwald. (R.6224). Once again Rose was thoroughly impeached by the offer of his letter to Mrugowsky dated 2 December 1943 (NO-1186, Pros. Ex. 492, R.6463). This letter reads as follows:

"At present I have at my disposal a number of samples of a new murine virus typhus vaccine which was prepared from mice livers and proved in animal experiments to be quantitatively a 1000 times more effective than the vaccine prepared from mice lungs. To decide whether this first rate murine vaccine should be used for protective vaccination of human beings against lice typhus it would be desirable to know if this vaccine showed in your and Ding's experimental arrangement at Buchenwald an effect similar to that of the classic virus vaccines.

"Would you be able to have such an experimental series carried out? Unfortunately I could not reach you over the phone. Considering the slowness

of postal communications I would be grateful for an answer by telephone. My numbers, all of which go through the same switchboard, are: Berlin 274313.

Rapid Exchange Berlin 09, Zossen 559
Luftwaffe Exchange 72, there you ask for R.L.M., L. In. 14."

In this letter the defendant Rose expressly requests that Mrugowsky have experiments carried out by Ding in Buchenwald to test the Insen murine typhus vaccine. This letter was later forwarded by Mrugowsky to Ding, whose signature appears on the bottom of the letter. This document corroborates the entry in the Ding Diary, and pays high tribute to the meticulous accuracy of the testimony of the Prosecution witness Kogon before this Tribunal. After reading this letter, Rose admitted that he signed it and that he did request Mrugowsky to test the vaccine in Buchenwald. (R. 6464-5).

In view of the clear and unequivocal contradiction between the testimony of Rose and the documents submitted to him on cross examination, his testimony as a whole cannot be viewed as credible. It is impossible to believe that a man who saw the experiments in progress at Buchenwald, who stated that he objected to these experiments, could, by any stretch of the imagination, fail to remember that he had personally instigated the carrying out of two series of experiments under conditions which he knew to be criminal. There is nothing to be said in mitigation for this man. He is an expert in the field of tropical medicine and far above average intelligence. He knew what was being done. He is a living example of a man who could have abstained from participating in these crimes without threat of harm

to his person or position by any agency of the Nazi Government. He testified that he objected to the experiments. He was not arrested and tried by the SS. He was not committed to a concentration camp. In spite of that, he voluntarily participated in these same crimes to which he said he objected. With his knowledge, prestige, and position, he is even more culpable than the miserable and inexperienced Ding who actually performed the experiments in the murder wards of Buchenwald.

III. CONCLUSION

Rose was the Consulting Hygienist to the Chief of the Medical Service of the Luftwaffe.

Rose actively supported the criminal malaria experiments by Schilling in Dachau. He knew that Schilling was conducting experiments on concentration camp inmates in Dachau. The proof has shown that he furnished Schilling with anopheles eggs, atroparvus eggs, "Strain Rose", and malaria spleens. This infection material was all sent directly to Schilling at Dachau. Rose corresponded with Schilling during the experiments. Schilling thanked him for support of his work. Rose supported Schilling's experiments at a time when he knew of systematic experimentation on concentration camp inmates without their consent. He had already visited the Buchenwald typhus station and requested Krugowsky to have experiments performed there. He had already been informed of the murderous freezing experiments in Dachau.

Rose participated in the typhus experiments by Haagen on involuntary subjects in the Natzweiler Concentration Camp. Haagen was Consulting Hygienist to an Air Fleet and his reports were submitted to Rose. Rose was informed by Haagen as early as October 1943 that

he planned to perform typhus infection experiments. Rose furnished Haagen with the Ipsen vaccine and knew of Haagen's intention to test it by typhus infection experiments. This was the same vaccine that Rose had tested in Buchenwald in 1944. Rose knew that Haagen received 100 concentration camp inmates for infection experiments, 18 of whom died during transport. Rose knew that Haagen thereafter received further human subjects. He asked Haagen to request enough inmates to test the Ipsen (Copenhagen) vaccine. Rose knew that Haagen carried out infection experiments in 1944. He sponsored a letter to Haagen asking if his typhus experiments were responsible for the epidemic in Natzweiler. The proof shows that Haagen's typhus experiments caused the death of approximately 50 human subjects.

Rose also participated in the typhus experiments in Buchenwald. He visited the experimental station in March 1942 and observed some of the inmates who had been artificially infected with typhus. In May 1942, Rose requested Mrugowsky to order experiments with the Bucharest vaccine. These experiments were carried out with the vaccine furnished by Rose and four experimental subjects were killed as a result. In December 1943, Rose asked Mrugowsky to have the Ipsen (Copenhagen) vaccine tested in Buchenwald. This experimental series was carried out between March and June 1944 and six experimental victims died.

There is nothing to be said in mitigation. Rose is a man of extraordinary intelligence. He acted with full knowledge that concentration camp inmates were being systematically forced to undergo highly dangerous experiments. The Prosecution submits that the evidence proves

that Rose was a principal in, an accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experimentation on human subjects without their consent, in the course of which experiments murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts were committed and that his guilt has been established under Counts I, II, and III of the Indictment.

MILITARY TRIBUNAL NO. I

CASE NO. 1

CLOSING BRIEF FOR
THE UNITED STATES OF AMERICA
AGAINST
PAUL ROSTOCK

James M. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

For:

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War Crimes

Nurnberg,
16 June, 1947.



INTRODUCTION

It is charged under Count I of the Indictment that Rostock conspired and agreed with others, pursuant to a common design, to perform medical experiments on involuntary human beings; and under Counts II and III (War Crimes and Crimes against Humanity, respectively), that he was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with, plans and enterprises involving medical experimentation on involuntary human subjects. The criteria of criminality are set forth in Paragraph 2 of Article II of Control Council Law No. 10.

I. POSITIONS OF RESPONSIBILITY

The defendant Rostock held positions of considerable power and responsibility in the medical services of the Third Reich. In 1933 he was appointed Senior Surgeon (Oberarzt) of the Surgical University Clinic in Berlin. In 1936 he became Professor of Surgery of the University of Berlin and Deputy Director of the University Clinic. In 1941 he was appointed to the position of Director of the Surgical Clinic and in 1942 he became dean of the medical faculty of the University of Berlin. (Rostock, R. 3259).

Rostock joined the NSDAP before the war. In 1939 he was assigned to the Army as a Consulting Surgeon and in 1942 he became Consulting Surgeon to the Army Medical Inspectorate. In this capacity, he was subordinate to the defendant Handloser. In the Army he attained the rank of Brigadier General (Generalarzt) of the Reserve. (NO-676, Pros. Ex. 8, R. 95; Rostock, R. 3259).

On 5 September 1943, Hitler issued the second decree concerning the medical and health services, charging the defendant Karl Brandt "with centrally coordinating and directing the problems and activities of the entire medical and health service according to instructions." This applied "also to the field of science and research." Brandt was authorized "to appoint and commission special deputies for his spheres of action". (NO-081, Pros. Ex. 6, R. 94) (emphasis supplied). It was on the basis of this decree that Rostock was appointed, in the winter of 1943, Chief of the Office for Science and Research under Brandt as General Commissioner of the Health and Medical Services. (NO-676, supra; Rostock, R. 3259, 3278).

The defendant Karl Brandt was a member of the Presidential Council of the Reichs Research Council from 1942 until the end of the war. (NO-1730, Pros. Ex. 441, R. 2091). From the time of his appointment as Chief of the Office for Science and Research, Rostock acted as Brandt's alternate on the Reich Research Council. (Rostock, R. 3342). Moreover, the Reich Research Council was subject to medical supervision by Brandt as General Commissioner. Brandt executed this supervision through Rostock. (NO-1730, Pros. Ex. 441, R. 2089; see also the organization chart of Brandt's Office, NO-645, Pros. Ex. 3, R. 88). The particulars concerning the organization, purpose and criminal activities of the Reich Research Council, as set forth on Pages 6 - 8 of the Prosecution's brief against Karl Brandt, are incorporated herein by reference.

Aside from his position as Consulting Surgeon of the Army and Brandt's Deputy in the Reich Research Council, Rostock's greatest influence in the medical services de-

rived from his position as Chief of the Office for Science and Research and from his personal influence and intimate connection with Brandt. In order to appreciate his influence, it is necessary to keep in mind Brandt's tremendous power over the medical services, both military and civilian, in the Third Reich. (See the Prosecution's brief against Karl Brandt). By virtue of the Fuehrer Decree of 5 September 1943 (NO-081, supra), Rostock became Brandt's "special deputy", charged with the task of "centrally coordinating and directing the problems and activities of the entire medical health service" in the field of science and research. In order to fulfill the task of coordination, it was indispensable for Rostock to have detailed knowledge of medical research then in progress and planned for the future. The defense contends that Rostock was prevented from acquiring such knowledge by a Fuehrer Decree obligating all State agencies to complete secrecy. (Rostock, Document 3, Ex. 3, R. 3262). This order only provided, however, that "no one is to have knowledge of secret matters which do not pertain to his own sphere of work". Obviously, medical research, its manner of execution and results, pertained directly to Rostock's sphere of work. Rostock was the man to act for Brandt in the field of research and Brandt had to be kept informed about the fundamental events in the medical services of the Wehrmacht (which included Army, Navy, Luftwaffe and Waffen SS) and the civilian health service. (NO-080, Pros. Ex. 5, R. 93). It is difficult to imagine what could be more fundamental than the policy of performing medical experiments, involving torture and death for

involuntary human subjects. It, therefore, was certainly no breach of the secrecy order on the part of the agencies, which carried out or planned such research, to report to Rostock. They were not only at liberty, but indeed under the duty, to do so. Rostock made arrangements to obtain information from the various agencies which issued research assignments for "special" research (i.e. research aimed at a definite practical goal), as, for example, the Luftwaffe, the Army Inspectorate, the Reich Research Council. (Rostock, R. 3358-60). Schroeder stated in his affidavit that Rostock was informed of the medical research which was conducted by the Luftwaffe. (NO-449, Pros. Ex. 130, R. 474). Rostock testified that he was only partly successful in obtaining information concerning research assignments on the part of the SS (Rostock, R. 3296/7), but he was in any event successful enough in that respect to classify certain criminal research assisted by the SS as "urgent". (NO-692, Pros. Ex. 457, R. 3408, Rostock, R. 3408). It is significant in this connection to note that he did not approach the German universities for information (Rostock, R. 3360), but only agencies which -- as the evidence has shown -- carried out or promoted criminal experiments on human beings.

As to the direction of research, Brandt was "authorized to intervene in a responsible manner" (NO-080, Pros. Ex. 5, R. 93) "and to issue instructions to the offices and organizations of the State, Party and Wehrmacht, which (were) concerned with the problems of the medical and health services". (NO-082, Pros. Ex. 7, R. 95). These prerogatives, of course, applied also to Rostock in the

field in which he acted on Brandt's behalf. In order to direct research in Nazi Germany, Rostock himself issued requests for research assignments (Rostock, R. 3301) and made decisions concerning the urgency of certain research assignments. (NO-692, supra).

Rostock's testimony concerning the activities of his Office for Science and Research is in essence the reductio ad absurdum that it was no office and had little or nothing to do with science and research. In short, Rostock would have the Tribunal find that he was a man with a pompous title but completely bereft of power and authority. This is the same plea unsuccessfully advanced by practically all of the defendants before the International Military Tribunal. This is the same lament being sung by Karl Brandt and Handloser among others in this case. These defendants compete with each other in self-abasement. The pre-trial statement of Schroeder is considerably more reliable as to the functions of the Office for Science and Research than Rostock's testimony. Schroeder said:

"It was Rostock's duty to avoid duplication in the distribution of assignments in the sphere of medical research. Therefore, all distribution of assignments had to pass through Rostock's office. If, for instance, I assigned Koch or Haagen some research work, a copy would go to Rostock to inform him of the nature of the job. Then Rostock could tell whether that particular job had already been worked on by someone else or whether it could lead to worthwhile results." (NO-449, Pros. Ex. 130, R. 471).

Schroeder reaffirmed during cross-examination that this was his understanding of Rostock's position as Chief of the Office for Science and Research. (R. 3605).

The personal connections between Rostock and Karl Brandt were intimate and long lasting. They met for the

first time when Rostock was Senior Physician at the Surgical Department at the hospital in Bochum from 1927 to 1933. Brandt was an assistant there. (Rostock, R. 3277). Rostock was appointed Chief of the Office for Science and Research on Brandt's request. (Rostock, R. 3278). During his tenure of office, they met very frequently, at least once a week and sometimes more often. Brandt maintained, throughout the period from 1943 until the end of the war, an office in Rostock's clinic in the immediate vicinity of Rostock's own office. (Rostock, R. 3349). They both also had offices in Bielitz. (Rostock, R. 3281). This contact and Rostock's official position with Brandt, make it entirely impossible that Rostock could have been ignorant of research work and experiments which were known to and supported by Brandt.

These, then, were the positions of responsibility of the defendant Rostock: Consulting Physician to the Army and Army Medical Inspectorate, Chief of the Office for Science and Research under the Reich Commissioner of the Health and Medical Services, and alternate to the defendant Karl Brandt in his capacity as member of the Presidential Council of the Reich Research Council. Rostock used the foregoing positions, his personal influence and his intimate connection with the defendant Karl Brandt in a manner which involved the commission of war crimes and crimes against humanity, set forth in the Indictment.

II. PERSONAL PARTICIPATION IN CRIMINAL EXPERIMENTS

As in the case of his Chief, Karl Brandt, it is not to be expected that a man in the position of Rostock would personally perform criminal experiments. That was left

to willing and ambitious hands at a lower level. The proof, however, has clearly shown that he, like Brandt, personally encouraged experimentation on human beings without their consent. He, like Brandt, had full knowledge that concentration camp inmates were being systematically experimented upon by doctors of the Luftwaffe, Army, SS, and the civilian health services. He never used his power and influence to end this perversion which resulted in the murder, torture and inhuman treatment of thousands of helpless men, women and children.

Rostock is charged in the Indictment with special responsibility for and participation in the malaria, gas, sulfanilamide, bone, muscle and nerve regeneration and bone transplantation, sea water, epidemic jaundice, and typhus experiments. It is not incumbent upon the Prosecution to show that Rostock was familiar with all the details of these experiments. It is sufficient to prove that he knew, or should have known, of the systematic use of involuntary human subjects for the purpose of experiments by agencies over which he exercised a substantial degree of power and authority. Application of Yamashita, 66 S. Ct. 340, 347 (1946). This, and more, has been proved by the Prosecution.

A. Sulfanilamide Experiments (Indictment, Par. 6 (E)).

The sulfanilamide experiments were conducted at the Ravensbruck Concentration Camp from July 1942 until August 1943. For a detailed statement of the criminality of these experiments, reference may be made to the Prosecution's brief against Gebhardt.

A full report on the criminal sulfanilamide experiments

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was given by Gebhardt and Fischer at the Third Meeting of the Consulting Physicians of the Wehrmacht held from 24 to 26 May 1943 at the Military Medical Academy in Berlin. Rostock testified that he heard about the sulfanilamide experiments for the first time when Gebhardt and Fischer spoke at this meeting. (R. 3322). This is clearly contradicted by the testimony of Gebhardt who stated that there was considerable discussion about the nature of his lecture with the person in charge of the program for the meeting, that he recalled this person to have been Rostock and so stated during pre-trial interrogations in 1945 and 1946, that the program for the meeting listed his lecture under the title "Special Experiments" which indicated he was trying to show something unusual, and that the whole subject was fully discussed with Rostock during the arrangements for the meeting of May 1943. (Gebhardt, R. 4103-06). There had been continuous correspondence concerning the experiments between Gebhardt, Grawitz, and Rostock. Grawitz had a complete report on the experiments when he negotiated with Rostock concerning the lecture by Gebhardt. (Gebhardt, R. 4107). During all of his pre-trial interrogations, Gebhardt stated that the person in charge of the meeting in May 1943 and with whom he discussed the experiments was Rostock. On the stand he stated that Rostock had told him that he was mistaken and that the preparations for the meeting were handled by Schreiber. In view of that fact, Gebhardt testified that he did not now clearly remember whether it was Rostock or Schreiber with whom he discussed this matter. (R. 4144). It is clear that the pre-trial statements made by Gebhardt are much more reliable in this regard than his professed failure of memory on the stand. Moreover, the fact that Rostock was

chairman of the meeting in May 1943 indicates conclusively that it was Rostock with whom Gebhardt negotiated. (Rostock, R. 3269).

That Rostock knew of the sulfanilamide experiments before the meeting in May 1943, contrary to his contention, is also proved by the testimony of Gebhardt that prior to the meeting he met Rostock and Brandt in a railroad station, and that he discussed publication of the results of the experiments with them. (R. 4222). Gebhardt affirmed that, during an interrogation of 5 November 1946, he stated that:

"I am sure I once told Brandt, without any order, that this anonymity of the whole matter is rather nonsensical. Now, he claims he cannot remember though, and once I told Rostock, 'do you realize what we are reporting? I do not know what Grawitz wrote to you. I am telling you Himmler ordered this, and that concerned the question of sulfanilamide, that is being done. These experiments are to be performed, but I give the scientific advice only because German science can make use of it'".

On being asked during the same interrogation whether it was made clear to Rostock and Brandt that the experiments were being made on prisoners, Gebhardt replied, "Evidently". (Gebhardt, R. 4222).

Rostock admitted that he presided over the meeting in May 1943 and that he heard Gebhardt and Fischer lecture on their experiments. (R. 3269-70). He admitted that it was made clear that the experimental subjects had been artificially infected. (R. 3322). He testified that Gebhardt and Fischer did not report on the number of experimental subjects used but merely gave percentages. (R. 3323). He testified that he was under the impression that relatively few experimental subjects were involved, perhaps around 20. (R. 3324). He expressly denied that he knew there were as

many as 50 subjects experimented on. (R. 3328).

Rostock's testimony as to the details he learned about the sulfanilamide experiments by Gebhardt is completely false. After the scientific reports were given at the Meeting of Consulting Physicians, summaries of the lectures were made and the results incorporated into medical directives. (Rostock, R. 3325). It is obvious that in order to evaluate the results of the experiments, it was necessary for Rostock to know the exact details, as for example, the number of experimental subjects used, the type and place of infection, the development of the infection and its danger, the method of treatment, number of deaths, and the like. But one need not rely upon such reasonable deductions from the facts to prove that Rostock gained complete knowledge of the details of these experiments and that he failed to make full disclosure during his testimony although questioned on these points. Gebhardt testified quite clearly to the effect that he was opposed to any camouflage and that he was anxious to bring the whole subject of these experiments into the open. When he gave the introduction to the lecture by Fischer, he stated that the experiments had been carried out on human beings. (R. 4109). Gebhardt does not definitely remember, according to his testimony, whether he said the experimental subjects were concentration camp inmates. The defendant Fischer has stated that this was made clear. (HO-472, Pros. Ex. 243, R. 941; cf., Fischer, R. 4365). Gebhardt testified that the clinical details of the experiments were explained in great detail. The meeting was told that 75 persons had been experimented on, that the infec-

tions had been artificially induced, that various drugs had been used in treating the infections together with the results, that surgical treatment was used, and that three persons died. (Gebhardt, R. 4109-10). In view of the clear contradiction between the testimony of Gebhardt and Rostock, the self-serving statements of Rostock cannot be viewed as credible.

Rostock testified that it was his understanding that the experiment was substituted for the death penalty which was supposed to have been imposed upon the subjects. If the experimental subject survived, the death sentence was not carried out. This "substitution" involved no element of consent by the experimental subject. (Rostock, R. 3376).

Having acquired knowledge, Rostock was not privileged to remain silent; he was under a clear duty to act. Rostock did nothing. He did not voice any objection at the meeting although he presided over it. He was the Consulting Surgeon to Handloser as Army Medical Inspector. He was a scientist of high repute and an acknowledged leader of German medicine. He knew that gangrene infection was extraordinarily dangerous. (Rostock, R. 3316). He knew that the experiments were unnecessary and that the same results could have been achieved by clinical study of the effects of sulfanilamide on wound infections of soldiers. (Rostock, R. 3338, 3340). Of all the persons present at this meeting, Rostock was most able to appreciate the horrors of the experiments. He did not discuss the experiments with his Chief, Handloser. He voiced no opposition to the experiments either openly or privately. Such facts constitute Rostock an accessory after the fact to the ori-

minal sulfanilamide experiments, even though it be assumed that they were completed at the time Rostock obtained knowledge. He took a "consenting part" in this criminal use of helpless concentration camp inmates.

It is not true, however, that the experiments had been completed at the time Rostock obtained knowledge. As late as August 1943, six Polish women were experimentally operated on by force in the bunker at Ravensbruck (NO-864, Pros. Ex. 229, R. 923). These persons might have been saved torture and mutilation if one man of authority had objected at the meeting in May 1943. Moreover, an investigation of the sulfanilamide experiments would have brought to light the criminal bone, muscle, and nerve experiments (Indictment, Par. 6 (F)), conducted by the same persons at the same place.

B. Typhus Experiments (Indictment, Par. 6 (J)).

At a conference on 29 December 1941 participated in by Handloser, Conti, Gildemeister, and Mrugowsky, it was decided to determine the effectiveness of typhus vaccine produced from cultures cultivated in egg yolks by experiments on human beings. (NO-265, Pros. Ex. 287, R. 1134; compare Handloser's statement, NO-732, Pros. Ex. 451, R. 3060). As a result of this decision, the experimental station in the Buchenwald Concentration Camp was established and experiments to test the effectiveness of various vaccines by artificially infecting inmates, without their consent, were performed from January 1942 until early in 1945. (Kogon, R. 1154, et seq.). The fact alone that these experiments were going on for more than three years on a very broad scale would justify a finding that Rostock knew or should have known of these experiments.

The problem of typhus vaccine production and allocation was obviously a matter within the jurisdiction of Brandt after his appointment as General Commissioner by the Fuehrer Decree of 28 July 1942. A clearer case of coordination of material cannot be found. Handloser had primary control over vaccine distribution. (Handloser, R. 3074, 3090; compare the testimony of Schroeder, R. 3642, 3643). Both Handloser and Conti were required to report on basic events to Brandt. Since production of the egg vaccine was dependent on research to determine its effectiveness, the two cannot be divorced.

The Buchenwald experiments were reported on by Dr. Ding-Schuler at the meeting of the Consulting Physicians of the Wehrmacht in May 1943. (NO-923, Pros. Ex. 436, R. 2063). Rostock admitted his presence at this meeting. (R. 3269). While he may not have heard the report itself since it was delivered to the section on hygiene, there can be no reasonable doubt that he heard of it. Rose raised objections to the character of the Buchenwald experiments and this was surely a matter which went beyond the walls of the lecture room. Kogon testified that Ding was furious about Rose's attack. (Kogon, R. 1176). The Buchenwald typhus experiments are described in detail in the Prosecution's brief against Mrugowsky.

Dr. Eugene Haagen, Hygienist for Air Fleet "Reich" and a medical officer of the Luftwaffe, also conducted typhus experiments on inmates of the Natzweiler Concentration Camp. (Schmidt, R. 1368, et seq.). These experiments were carried out for the Luftwaffe and the Reich Research Council. (NO-129, Pros. Ex. 308, R. 1403; NO-137, Pros.

Ex. 189, R. 737). Rostock admitted that the Office for Science and Research received a copy of Haagen's report to the Reich Research Council early in 1944. (Rostock, R. 3311, 3367; NO-138, Pros. Ex. 300, R. 1390). This report expressly stated that, "The anti-infectious effect of dried vaccine will be further experimented on human beings". The typhus research of Haagen was classified "urgent" at a meeting of the Office for Science and Research in August 1944 called by Rostock and attended by members of the Reich Research Council and the Wehrmacht. (NO-692, Pros. Ex. 457, R. 3408; Rostock, R. 3409). Brandt was a member of the Reich Research Council and chief of Rostock (supra). See also the affidavit of Rudolf Brandt. (NO-370, Pros. Ex. 294, R. 1385). The typhus experiments of Haagen are described in detail in the Prosecution's brief against Rose and Schroeder.

C. Gas Experiments (Indictment, Par. 6 (D)).

The gas experiments by Hirt are described in the Prosecution's brief against Sievers while those by Bickenbach in the brief against Karl Brandt.

There can be no doubt that Rostock had knowledge of and encouraged the gas experiments of Hirt and Beckenbach. On 1 March 1944, i.e., long after Rostock had taken office with Brandt, Hitler gave the latter broad powers in the field of chemical warfare. (NO-012, Pros. Ex. 270, R. 1038). That this commission included medical research on gas wounds can be concluded from the statement of Brandt that his jurisdiction extended to pharmaceutical products to treat gas wounds. (R. 2629). This necessarily involved a determination of the most effective method of treatment.

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It can also be concluded from the fact that copies of the decree which Brandt sent to Himmler (NO-012, supra.) were forwarded to Grawitz and Sievers, who had previously worked on this problem. (NO-013a, Pros. Ex. 271, R. 1038; NO-013b, Pros. Ex. 272, R. 1039).

Following the issuance of this decree, Brandt received reports about the research activities of Hirt, both oral (NO-015, Pros. Ex. 275, R. 1039) and written (NO-099, Pros. Ex. 268, R. 1035). He was aware of the fact that experiments on human beings had been performed by Hirt. (Brandt, R. 2626). Approximately 220 inmates of Russian, Polish, Czech, and German nationality were experimented on with gas, of whom about 50 died. They did not volunteer. (Holl, R. 1052, 1057). Hirt continued his gas experiments at Natzweiler during the summer of 1944. (Holl, R. 1058).

That Rostock knew of the experiments by Hirt is proved by the fact that in August 1944 his research was classified as "urgent" at a meeting of the Office for Science and Research. (NO-692, Pros. Ex. 457, R. 3411). The conferences which gave rise to these classifications were held in Rostock's office in Seelitz. They were attended by representatives of the medical services of the Wehrmacht and the Reich Research Council. Breur, and probably Blome, represented the Reich Research Council and Schreiber the Army. (Rostock, R. 3343, 3384). It is difficult to name men better informed on criminal experimentation than those three.

The phosgene gas experiments by Bickenbach were personally sponsored by Rostock's chief, the defendant Karl Brandt. Bickenbach was a professor at the University of

Strassbourg along with Hirt and Haagen. (Brandt, R. 2631). Brandt testified that Bickenbach's gas experiments came to his attention in the fall of 1943 on the occasion of a visit to Strassbourg to see a cyclotron; that he helped him to arrange a laboratory; that he assisted him in obtaining experimental animals; that he helped him in 1944 after he had established his laboratory. (Brandt, R. 2619-20).

Rostock admitted that he was with Brandt when he talked to Bickenbach and promised him aid. He also admitted having talked to Bickenbach in Berlin on one occasion. (Rostock, R. 3389). Rostock denied he knew of the purpose of the laboratory furnished by Brandt, although he heard the discussion about it. (Rostock, R. 3390-1). Thus, he goes one step beyond Brandt, who merely denied that he knew of experiments on human beings.

In February 1944, Brandt was in Natzweiler, but he maintained only animal experiments were conducted there by Bickenbach. The contrary is proved by the official war crimes report of the Government of the Netherlands. (NO-1063, Pros. Ex. 328, R. 1498, see the statements of Nales and Roessingh). Josef Kramer, former Camp Commander at Natzweiler, also stated that Bickenbach experimented on prisoners. (NO-807, Pros. Ex. 185, R. 732).

The reports by Bickenbach on his experiments prove that 40 Russian prisoners of war were poisoned with phosgene gas with death resulting to no less than four of the subjects. (NO-1852, Pros. Ex. 456, R. 3408, see particularly the 7th report). These experiments were performed after August 11, 1944, which is the date of the 4th report. All of these reports were addressed to Brandt as General

Commissioner for the Health and Medical Services at Ziegelstrasse 9/5, Surgical Clinic of the University. Rostock and Brandt had offices four doors apart in the University Clinic. (Rostock, R. 3349). Rostock asks the Tribunal to believe that his jurisdiction over science and research was limited to Brandt's "special tasks", of which chemical warfare was one, but at the same time he denied any knowledge of Bickenbach's experiments, although he was working for Brandt. (Rostock, R. 3354).

As in the case of Hirt's experiments, the research of Bickenbach on chemical warfare agents was classified "urgent" by Rostock at the meeting of the Office for Science and Research on 26 August 1944. (NO-692, supra). Rostock's contention that he received information for his research card index file from other agencies is clearly not true as to Bickenbach. His work was being personally supported by Brandt and there was no other place for Rostock to get the information except from his chief. Bickenbach's work was sponsored by Brandt's office. That Brandt's office chief for science and research didn't know anything about it cannot be believed.

D. Epidemic Jaundice (Indictment, Par. 6 (H)).

In June 1944, a conference of experts was called by Handloser for the purpose of coordinating jaundice research. This conference took place at Breslau and was presided over by Schreiber (Gutzeit, R. 2752). Handloser, Gutzeit, and Haagen, a Consulting Hygienist of the Air Fleet Reich, were all present at this conference. (Gutzeit, R. 2717). Haagen admitted during cross-examination that experiments on human beings were discussed. That criminal

experiments on concentration camp inmates were meant is clear from the fact that Schreiber in January 1945, personally requested Mrugowsky to make available inmates for hepatitis experiments by Dr. Dresel. (NO-1303, Pros. Ex. 467, R. 5400). Schreiber assigned groups of physicians to work together on jaundice problems. Dohmen, Gutzeit and Haagen were assigned to one of these groups. (Gutzeit, R. 2717). On 12 June 1944, Haagen himself requested Schreiber to assign Dohmen to work with him. Generalarzt Schreiber at that time was commander of the Military Medical Academy. (NO-299, Pros. Ex. 190, R. 739). Schreiber complied with this request. (NO-300, Pros. Ex. 191, R. 740).

On 24 June 1944, Gutzeit wrote to Haagen that he was also requesting Schreiber to assign Dohmen to Haagen. He went on to state that he was making preparation for experiments on human beings and he wanted Haagen to supply him with his virus material. (NO-124, Pros. Ex. 193, R. 743). Haagen replied to Gutzeit's letter on June 27, 1944 stating that he was glad that Dohmen would be assigned to him as of 15 July. He further stated that he was working with Kalk, Buechner, and Zuchschwert, all officers of the Luftwaffe, on jaundice problems and that he had arranged with Kalk to conduct human experiments with his material. (NO-125, Pros. Ex. 194, R. 744.) On the same date Haagen wrote to his collaborator Kalk, who was attached to the staff of the defendant Schroeder, stating as follows: "In the enclosure I send you a copy of a letter from Gutzeit and my reply. We must proceed as soon as possible with the experiments on human beings. These experiments, of course, should be carried out at Strassburg or in its

vicinity. Could you in your official position take the necessary steps to obtain the required experimental subjects. I don't know what sort of subjects Gutzeit has at his disposal, whether they are soldiers or other people". (NO-126, Pros. Ex. 195, R. 745).

The remark about "other people" is an obvious reference to concentration camp inmates, upon whom Haagen had long since been experimenting with virulent typhus virus, while the reference to "Strassburg or in its vicinity" indicates the Concentration Camp Netzweiler. Herr Kalk and his Chief, the defendant Schroeder, were well advised on how to procure concentration camp inmates for medical experiments because only a few weeks before Schroeder himself had requested inmates from Himmler for the sea water experiments. (NO-185, Pros. Ex. 134, R. 483).

The record shows that Dohmen did in fact go to Strassburg to work with Haagen on the direct orders of Schreiber. (Gutzeit, R. 2752). Here again Rostock's Office for Science and Research classified Haagen's epidemic jaundice research as "urgent". (NO-692, Pros. Ex. 457, R. 3408).

The jaundice experiments by Dohmen in the Sachsenhausen Concentration Camp were initiated and supported by the defendant Karl Brandt. (See the Prosecution's brief against Brandt). While the consent for these criminal experiments was given on 16 June 1943, when Rostock was not yet chief of the Office for Science and Research, the experiments were undoubtedly still being studied and analyzed in the fall of 1943 when Rostock had taken office under Brandt.

E. Other Experiments

The Prosecution relies primarily on the position of the defendant Rostock in connection with the charge of responsibility for the malaria, polygal, and sea water experiments. As Chief of the Office for Science and Research and a close collaborator of Karl Brandt, he knew or should have known of the systematic use of concentration camp inmates for experimentation without their consent. Rostock was no island of virtue in the sea of criminality which surrounded him.

The malaria experiments were conducted in Dachau from February 1942 until 1945 by Dr. Klaus Schilling, formerly of the Robert Koch Institute and one of the most famous German scientists on tropical medicine. Over 1,000 inmates were used in these experiments and many died. (See the Prosecution's brief against Rose). It is clear that such a large series of important experiments must have been known to Rostock.

Experiments by Rascher were conducted in Dachau to test the blood coagulating effect of a drug called "Polygal". For this purpose, a number of inmates were shot. (See the Prosecution's brief against Blome). Early in 1944, a paper by Rascher and Haferkamp on Polygal was published in the Munich Medical Weekly. (NO-438, Pros. Ex. 240, R. 956; Blome, R. 4639). This paper draws a clear distinction between experiments on human beings to test the effect of Polygal and clinical tests. It states that: "Before we tried the clinical use of the drug and had it probed, it was tested on human beings by thorough experiments as to its influence on the period of clotting and bleeding." Curves were included to show the reaction of Polygal on clotting and bleeding. Later on the paper

discusses clinical observations during operations. Both Grawitz and Pohl raised objections to the publication of the article because they had not been consulted and because Dachau 3 K and human experimental subjects were mentioned. (NO-614, Pros. Ex. 245, R. 964; NO-615, Pros. Ex. 246, R. 966). Rostock admitted having read this article, which a discerning reader would have realized concerned experiments on inmates at Dachau. He also admitted having written to the authors of the article and requested samples of Polygal. (Rostock, R. 3307). This inquiry was handled by the defendant Sievers. (3546-PS, Pros. Ex. 123, R. 975, entry for 1 June). Rostock certainly must have informed himself of the nature and results of these experiments.

The sea water experiments were conducted by the Luftwaffe in Dachau in 1944. (See the Prosecution's brief against Schroeder). As to Rostock's knowledge of these experiments, it is sufficient to refer to Schroeder's statement that Rostock was informed of the medical research carried out by the Luftwaffe. (NO-449, Pros. Ex. 130, R. 471).

In addition to Rostock's participation in the experiments outlined above, he was Chief of the Office for Science and Research under Brandt when Brandt was personally supporting experimentation on concentration camp inmates.

On 30 September 1943, Grawitz wrote to Himmler stating that Karl Brandt had requested him to test a new ointment for the treatment of phosphorous burns. Grawitz asked permission to test the drug by artificially creating burns on experimental inmates in Sachsenhausen (Oranien-

burg). Testing the drug on German civilians burned in air raids was considered too slow. Consent for these experiments was given on 7 October 1943. (NO-1620, Pros. Ex. 449, R. 2646).

It is not without significance that the experiments during which inmates were burned with phosphorous from an incendiary bomb were carried out in Buchenwald beginning on 12 November 1943. (NO-265, Pros. Ex. 287, R. 1127; Kogon, R. 1187-90). There is little doubt that the situs of the experiments proposed by Brandt was changed from Sachsenhausen to Buchenwald. The experimental victims suffered excruciating pain. (Kogon, supra).

On 4 February 1944, the defendant Rudolf Brandt wrote to a member of Himmler's personal staff in Berlin (Baumert) stating that Karl Brandt had asked for 10 prisoners at Oranienburg to test a certain medicine. Karl Brandt had discussed these experiments with Grawitz. The prisoners were made available. (NO-1362, Pros. Ex. 448, R. 2644).

That Brandt's office was connected with experiments on concentration camp inmates is further proved by the report dated 31 March 1945 concerning experiments at the Neuengamme Concentration Camp. (NO-154, Pros. Ex. 446, R. 2638). Water decontamination experiments were carried out there on inmates. The report states that the "Third series of experiments was carried out with an agent of the Lost group, the asphyxiating gas Lost, in accordance with the suggestion made by Oberstarzt Dr. Wirth at the conference on 4 December 1944 with Reichkommissar Dr. Brandt."

Finally, the proof shows that medical experiments

on concentration camp inmates was carried out on such a broad scale that it had come to the ears of Keitel, Chief of the High Command of the Wehrmacht. A memorandum dated 23 February 1944, signed by Klieve of the Army Medical Inspectorate, shows that experiments on human beings were proposed by the defendant Blome in connection with bacteriological warfare. The memorandum states that: "By request of Field Marshal Keitel, the armed forces are not to have a responsible share in the experiments since experiments will also be conducted on human beings." (NO-1309, Pros. Ex. 326, R. 2615). It hardly lies in the mouth of the defendant Rostock to deny knowledge of such experimentation when it was known to Keitel, whose interests far transcended medical research. The same document shows that Brandt was assisting Blome with the institute at Posen, where the experiments were carried out. Rostock admitted having attended a meeting with Handloser and Blome, among others, on bacteriological warfare. (R. 3305). See the Prosecution's brief on Blome for a description of the bacteriological warfare experiments.

III. CONCLUSION

Rostock was one of the responsible leaders of German medicine. He was the Dean of the medical faculty of the University of Berlin. He was the Consulting Surgeon to the Army Medical Inspector (Handloser) with the rank of Generalarzt. He became the Chief of the Office for Science and Research under Karl Brandt and with him had the responsibility of "centrally coordinating and directing the problems and activities of the entire medical and health service..." This applied "to the field of science

and research". Brandt's office was the supreme authority in the Third Reich on medical questions. Handloser, as chief of the military medical services, and Conti, as chief of the civilian medical services, were required to report to Brandt and were subject to directives from his office. Rostock was Brandt's closest collaborator in this work. Rostock also was a member of the Presidential Council of the Reich Research Council as alternate to Brandt.

Rostock was fully informed on the details of the criminal sulfanilamide experiments. As chairman of the section on surgery, and Consulting Surgeon to Handloser, he arranged the program for and presided over the Meeting of the Consulting Physicians of the Wehrmacht in May 1943 at which Gebhardt and Fischer reported on their criminal experiments. Gebhardt and Grawitz both negotiated with Rostock before the meeting concerning the lecture to be given. Gebhardt informed Rostock and Brandt about the experiments. Gebhardt and Fischer explained the experiments in detail at the meeting, although Rostock denied this on the stand. It was even reported that three human beings were killed as a result of the artificially induced infection. Not by one word or deed did Rostock use his power and influence to intervene in this matter. His conduct is only consistent with knowledge and approval of a policy to use concentration camp inmates systematically for criminal experimentation. Further experiments of a similar nature were performed under the direction of Gebhardt after this report.

At the very same meeting, Ding delivered a lecture on murderous typhus experiments in Buchenwald to the sec-

tion on hygiene which was presided over by Rostock's colleague Schreiber. It is inconceivable that Gebhardt, Fischer, and Ding should be so openly reporting at the same meeting on their criminal experiments absent an accepted Nazi policy approving of such practices. Holzlochner had reported at the previous meeting of Consulting Physicians on his freezing experiments with Rascher. The same experiments were dealt with at a large meeting in Nurnberg in October 1942 which was attended by Schreiber as well as other Army medical officers. Rostock's contention that he never heard of this criminal policy of experimenting on helpless and unwilling human subjects, that he never heard a whisper about Ding's lecture and the objections raised to it, that Gebhardt and Fischer said nothing to arouse his suspicions, such testimony cannot be believed.

Rostock received a report on Haagen's typhus experiments, he was a member of the Reich Research Council which supported him together with the Luftwaffe, and Rostock's Office for Science and Research, classified his research on typhus as urgent. Haagen's epidemic jaundice research, which was planned for experiments on human beings, was also classified urgent.

Brandt's office was actively supporting the gas experiments by Hirt and Bickenbach long after Rostock was active there. The criminal research of both of these men was classified as urgent by the Office for Science and Research. Rostock was with Brandt in Strassbourg in 1943 when Brandt promised Bickenbach the facilities to carry out his phosgene experiments on human beings. Rostock

saw Bickenbach in Berlin on at least one other occasion. His experiments in the fall of 1944 brought death to four Russian prisoners of war. The reports on these experiments were sent to Brandt's office in the University Clinic four doors removed from Rostock's office in the same building. If the Chief of the Office for Science and Research was not dealing with these matters, then it is impossible to imagine who was. Brandt said he knew nothing about medical experimentation in general and Bickenbach's experiments on human beings in particular.

Brandt was also supporting other experiments on human beings during Rostock's tenure with him. These included experiments to test a new ointment on artificially induced phosphorus burns and decontamination experiments with water poisoned by mustard gas.

The Prosecution submits that the evidence proves that Rostock was a principal in, accessory to, ordered, abetted, took a consenting part in, was connected with plans and enterprises involving, and was a member of a group or organization (Brandt's office and the Reich Research Council) connected with medical experimentation on human subjects without their consent, in the course of which experiments murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts were committed, and that his guilt has been established under Counts I, II, and III of the Indictment.

M I L I T A R Y T R I B U N A L N O I

Case No. 1

CLOSING BRIEF FOR
THE UNITED STATES OF AMERICA
AGAINST
KONRAD SCHAEFER

Nürnberg,
16 June 1947

James M. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

For:

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War Crimes



INTRODUCTION

It is alleged under Count One of the Indictment that the defendant Schaefer conspired and agreed with others, pursuant to a common design, to perform medical experiments on involuntary human subjects; under Counts Two and Three (War Crimes and Crimes against Humanity, respectively) that he was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experimentation on involuntary human subjects.

The defendant Schaefer is charged with special responsibility for and participation in the sea water experiments, as set forth in Paragraph 6 (G) of the Indictment.

RESPONSIBILITY FOR AND PERSONAL PARTICIPATION IN CRIMINAL EXPERIMENTS

The defendant Schaefer was an employee of the Schering Works, and worked in the laboratories of this firm. His special field of research was chemical therapy. (Schaefer, R. 8349). He joined the Luftwaffe in 1941, but after having received basic training, returned to the Schering Works and worked there in the capacity of assistant to the chief of the laboratory. In 1944 he became director of this department. (Schaefer, R. 8350). As he was a research worker, the Luftwaffe used his abilities, and he was attached in 1942 to the Medical Experimental and Instruction Division (Sanitaets/Versuch- und Lehrabteilung) in Jueterbog, one of the departments of the Research Institute for Aviation Medicine in Berlin. (Schaefer, R. 8351). He, however, retained his position with the Schering Works. (Schaefer, Ex. 14, R.

8355). It was in his capacity as member of the Medical Experimental and Instruction Division which brought Schaefer into contact with criminal experimentation on concentration camp inmates.

On 26 and 27 October 1942, Schaefer attended the freezing conference in Nurnberg where Holzloehner and Rascher delivered their lecture on the freezing experiments in the Dachau Concentration Camp. (Schaefer, R. 8361, see Prosecution's brief against the defendant Sievers). He also delivered a lecture there on thirst and measures to combat it in sea distress. (Schaefer, R. 8359, 8362). Schaefer denied that he heard Holzloehner and Rascher speak, but this is quite improbable since Schaefer's talk came on the day following the Holzloehner and Rascher reports. (NO-401, Pros. Ex. 93, R. 309, see address by Anthony). Moreover, Holzloehner was also attached to the Medical Experimental and Instruction Division. (NO-401, supra). The lecture of Holzloehner and Rascher created something of a sensation as it was made clear that concentration camp inmates had been used for the experiments, which formed the basis of the lecture, and that some of the experimental subjects died. (Lutz, R. 272). It is certain that Schaefer, who was present at the meeting, not in the capacity of a disinterested listener, but as one of the scientists who lectured on a related subject, knew of this sensational report.

In early summer of 1944 Schaefer participated in the planning of the criminal sea water experiments. These experiments were conducted on inmates of the Dachau Concentration Camp and was a criminal undertaking from its very inception in May 1944. After two and one-half

years of murderous medical experimentation on concentration camp inmates by doctors of the Luftwaffe including the high altitude, freezing, gas, and typhus experiments at Buchenwald and Natzweiler, the defendant Schroeder, with certain knowledge that some of the subjects would probably die, personally ordered the carrying out of the sea water experiments. His subordinates, Becker-Freyseng, Beiglboeck, and Schaefer participated in the planning and execution of them, among others.

On 19 May 1944 a conference was held at the German Air Ministry (RLM) which was attended by Christensen, Schickler, Becker-Freyseng, and Schaefer, among others. Becker-Freyseng and Schaefer represented the Chief of the Medical Service of the Luftwaffe. This conference was concerned with the problem of the potability of sea water. Two methods of making sea water drinkable were then available to the medical services of the Luftwaffe. One, which had been developed by Schaefer and bore the name Wofatit, had been chemically tested and apparently produced potable seawater. It had the disadvantage, however, of requiring substantial quantities of silver which was available only in limited quantities. The second method, so-called Berkatit, was a substance which changed the taste of sea water but did not remove the salt. It had the advantage of simplicity of manufacture and use.

At the conference on 19 May, the defendant Becker-Freyseng reported on certain clinical experiments which had been conducted by von Sirany to test Berkatit. He came to the conclusion that the experiments had not been conducted under realistic enough conditions of sea distress. He reported that the Chief of the Medical Service of the Luftwaffe was:

"convinced that, if the Berka method is used, damage to health has to be expected not later than 6 days after taking berkatit, which damage will result in permanent injuries to health and - according to the opinion of Unterarzt Dr. Schaefer - will finally result in death after not later than 12 days. External symptoms are to be expected such as dehydration, diarrhea, convulsions, hallucinations, and finally death." (NO-177, Pros. Ex. 133, R. 479).

As a result of this conference, it was agreed to conduct new experiments. They were to include a series of experiments for a maximum of six days during which one group of subjects was to be given sea water processed with Berkatit, another group ordinary drinking water, another group without drinking water at all, and the final group such water as was available in the emergency sea distress kits then used. A second series of experiments was decided upon and the report stated:

"Persons nourished with sea water and Berkatit, and as diet also the emergency sea rations.

Duration of experiments: 12 days

Since in the opinion of the Chief of the Medical Service permanent injuries to health, that is, the death of the experimental subject has to be expected, as experimental subjects such persons should be used as will be put at the disposal by Reichsuehrer SS." (NO-177, supra).

Thus, with full knowledge that the use of Berkatit for periods of six days would result in permanent injuries to the experimental subjects and that death would result no later than the 12th day, plans were made to conduct experiments of 12 days' duration. It should be noted that the conference report does not state that the duration was a maximum of 12 days as in the case of the first series of experiments. Since it was known that volunteers could not be expected under such conditions,

the conference decided on the use of inmates of concentration camps which would be put at their disposal by the SS. At a second meeting on 20 May 1944, the report states that "it was decided that Dachau was to be the place where the experiments were (to be) conducted". (NO-177, supra). Copies of the report on the conferences were sent, among others, to the Medical Experimentation and Instruction Division of the Air Force, Jüterbog, to which the defendant Schaefer and Holzloehner, who conducted the freezing experiments with Rascher, were attached; the D.V.L., Berlin-Adlershof, to which the defendants Ruff and Ramberg were attached; to the Medical Inspectorate of the Luftwaffe (L.In.14); and the Reichsfuehrer SS. The report was signed by Christensen of the Technical Office of the R.L.M.

The minutes of the conference (NO-177, supra), show clearly that Schaefer was well aware that the planned sea water experiments would result in death if conducted for a period of 12 days. Nevertheless it was decided to conduct experiments for such a period. The experimental plan was altered to include experiments with Schaefer processed sea water.

The experiments planned and decided upon at the meeting on 19 and 20 May 1944 were carried out by the defendant Beiglboeck with the assistance of the defendants Schroeder, Sievers, Becker-Freyseng and others in the Dachau Concentration Camp during August and the first half of September 1944. Forty-four experimental subjects, all gypsies, were used.

The charts kept by the defendant Beiglboeck on each of the experimental subjects, which the defense was finally forced to submit into evidence, give some of the

details as to the experiments. (Beiglboeck Ex. 34, R. 9381). Experimental subjects were given either sea water processed according to the Schaefer method (Schaefer water - Wofatit) or Berkatit or plain sea water, consisting of 500 or 1000 cc. per day. The duration of the experiments varied between 5 and 12 days, and the experimental subjects were exposed to hunger up to 8½ days. (For details, see the Prosecution's brief against Beiglboeck). The experimental subjects did not volunteer. (Vorliceck, R. 9388, 9392; Laubinger, R. 10200-1; Hoellenreiner, R. 10509). The majority of the experimental subjects were allied nationals, such as Czechs, Poles and Russians. (Laubinger, R. 10208; Hoellenreiner, R. 10513; Vorliceck, R. 9388).

The testimony of the Prosecution witnesses proves that the sea water experiments resulted in murder and torture. The experimental subjects became very ill and gave the impression of being unable to live much longer. (Vorliceck, R. 9390). A number of subjects suffered attacks of delirium. Two of them were transferred to the camp hospital and their fellow inmates did not see them again. (Laubinger, R. 10209). No pity or concern was shown by the defendant Beiglboeck when the experimental subjects became delirious from thirst and hunger. (Hoellenreiner, R. 10510). Their physical condition deteriorated considerably as a result of the experiments. One of the subjects had an attack of madness. (Tschofenig, R. 9336). At the conclusion of the experiments three of the subjects were brought to the station for internal diseases. One of them died as a result of the experiments. (Tschofenig, R. 9338-9).

The testimony of these witnesses is corroborated by

the findings of the expert witness for the Prosecution. Dr. Ivy stated that if 1,000 cc. of sea water of Berkatit were taken per day, it would cause death in less than 12 days. Death would occur between the 8th and 14th day if 500 cc. were consumed per day under ideal conditions. (R. 9045). In this connection it must be borne in mind that the experiments were carried out during the hot summer months, a fact which certainly increased the dehydration caused by the consumption of sea water and Berkatit.

As a result of his study of the clinical records (Beiglboeck Ex. 34, supra), Dr. Ivy testified that a number of the experimental subjects were ill during the experiments. He expressly stated that there was a possibility that three of the most seriously ill subjects may have been permanently injured or died as a result of the experiments. (R. 9058-9). (See the brief against Beiglboeck for details). From the testimony of Dr. Ivy it is further proved that it was entirely unnecessary to conduct experiments for 12 days as planned in the conferences of 19 and 20 May 1944. (NO-177, supra). Experiments of 3 or 4 days duration would have been sufficient to show that Berkatit was just as dehydrating as sea water. (R. 9046). Dr. Ivy stated that experiments for a longer period made sense only if it was intended to determine the survival time of human beings on 500 or 1000 cc. of sea water per day. It is clear that the experimental plan anticipated deaths. (R. 9046-7).

For a detailed description of the execution and criminal nature of the seawater experiments, reference should be made to the Prosecution briefs against the defendants Schroeder and Beiglboeck.

CONCLUSION

Schaefer was an expert and specialist on hunger and thirst problems and had carried out experiments in this field himself. (Schaefer Ex. 20 - 21, R. 8370; Schaefer, R. 8371). He knew that Berka and Sirany, whose methods he was charged with testing, were charlatans. (Schaefer, R. 8382; see also Schaefer Ex. 29-30, R. 8383-4). He was convinced that Berkatit "was entirely ineffective, and that this was so obvious that there was no point in experimenting with it". He professed that he was the most radical opponent of the Berka method and was, therefore, prevented by the chairman of the meeting on the 20 May 1944, from expressing his negative opinion. He was even threatened that his behaviour would be considered as an act of sabotage. (Schaefer, R. 8388). He stated that he had no interest whatsoever in experiments with Wofatit being carried out on human beings, as he had nothing to do with this preparation. It would have been a ridiculous ambition on his part to prove how good Wofatit, and how bad Berkatit were. (Schaefer, R. 8389).

The proof however has shown that these assertions on the part of Schaefer deserve no merit and constitute no defense. If Schaefer's defense were true he certainly would not have attended the 2nd meeting of the conference which took place one day after he allegedly had voiced his strenuous objections. (Schaefer, R. 8539). He even attended a third meeting on 25 May. Schaefer tried to explain this inconsistency by his low grade in the Luftwaffe, but it is clear that he attended the two conferences on 19 and 20 May as an expert representative of the Luftwaffe and that his rank could not have been decisive. If it was really true that he objected as strongly as he now wants to imply, his participation in the conferences on 20 and 25 May would never have been

requested by his superiors. Schaefer, however, admitted his presence in these two conferences. (R. 8392, 8541). Moreover, he was unable to give an explanation of the fact that the experiments with Schaefer water were included in the experimental plan. (Schaefer, R. 8541). That this could not have been decided upon without the advice and participation of the expert who developed this method is obvious. From the minutes of the conference of 19 May 1944 (NO-177 supra), it is apparent that it was already decided on that day to carry out experiments with seawater and Berkatit for the duration of 12 days. In the same conference Schaefer had voiced his opinion that after 12 days death would occur, if seawater and Berkatit were used. (Schaefer, R. 8534). Thus, it is proved that Schaefer at the latest on the 19 May was fully aware that the execution of the sea water experiments would necessarily be criminal. It is, moreover, apparent from his testimony that he acted in this conference and in the subsequent conference by no means as a non-commissioned medical officer, but as the expert for the Luftwaffe. This is proved by the fact that he was able to continue his activities in the Schering Works even after having been drafted into the Luftwaffe, by his assignment to the Medical Experimentation and Instruction Division, and by the fact that he was in the position to contact the defendant Becker-Freysong by telephone on the subject of the experiments, the latter being at that time research adviser to the defendant Schroeder. (Schaefer, R. 8589).

Schaefer never disassociated himself from the experiments. He attended the conference in October 1944 where Beiglboeck reported on the results. (NO-474, Pros. Ex. 131, R. 474). Schaefer admitted having been present at this conference. (R. 8560). The fact that Schaefer was requested to

attend this conference is conclusive proof that he was collaborating in the experiments and was fully informed about their plan and execution. His presence would have been unnecessary and even unwanted had he been considered as an opponent of the experiments, as he now wants the Tribunal to believe. Schaefer's pre-trial affidavit reveals in connection with this meeting that he knew that the experiments in the Dachau Concentration Camp had been carried out "during the period of 7 - 12 days". Dr. Beiglboeck also reported that the experiments had resulted in swelling of the liver and nervous symptoms. Delirium and mental disturbances also appeared. (NO-474, supra). In the manner which became customary during the trial, Schaefer tried to explain away certain passages of this affidavit which implicate him or his co-defendants. He had to admit, however, that he swore to and signed this affidavit without duress, and that he himself made a number of corrections in the text before signing it. (Schaefer, R. 8560).

The fact that seawater processed by the Schaefer method is harmless and did not impair the health of the experimental subjects constitutes no defense for Schaefer, as the general experimental plan was known to him to be criminal, and the execution of the experiments resulted in death and torture of the experimental subjects. That he had no confidence in Berkatit is also quite beside the point. He wilfully supported criminal experiments in an effort to prove that his process was the better of the two.

The Prosecution submits that the evidence proves that Schaefer was a principal in, accessory to, ordered, abetted, took a consenting part in, was connected with plans and enterprises involving, and was a member of a group or organization connected with medical experimentation on human subjects without their consent, in the course of which experiments, murders,

brutalities, cruelties, tortures, atrocities, and other inhumane acts were committed, and that his guilt has been established under Counts I, II, and III of the Indictment.

MILITARY TRIBUNAL NO. I

CASE NO. 1

CLOSING BRIEF FOR
THE UNITED STATES OF AMERICA

AGAINST

ERICH RUFF
HANS OLFGANG ROMBERG
GEORG AUGUST WELTZ

James M. McHanoy
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

For:

Telford T. Tylor
Brigadier General, U.S.A.
Chief of Counsel for War Criminals

Nurnberg,
16 June 1947.



INTRODUCTION

It is alleged, in essence, under Count I of the Indictment, that the defendants conspired and agreed with others, pursuant to a common design, to perform medical experiments on involuntary human subjects; under Counts II and III (War Crimes and Crimes against Humanity, respectively), that they were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving medical experimentation on involuntary human subjects.

The defendant Weltz is particularly charged with special responsibility for, and participation in, the high altitude experiments, as set forth in Paragraph 6(A) of the Indictment, and the freezing experiments, set forth in Paragraph 6 (B).

The defendants Ruff and Romberg are particularly charged with special responsibility for, and participation in, the high altitude experiments, as set forth in paragraph 6 (A) of the Indictment.

I. POSITIONS OF RESPONSIBILITY

GEORG AUGUST WELTZ

The defendant Weltz was, for many years, a specialist in X-ray work. (Weltz, R. 7038). In the year 1935, he received a lecture assignment in the field of aviation medicine at the University of Munich and, at the same time, instituted a small experimental department at the Physiology Institute at the University of Munich. (Weltz, R. 7040). The defendant lectured at the University of Munich until 1945 and, at the same time, did research work in the Institute. (NO-677, Pros. Ex. 17, R. 113).

In 1937, defendant Weltz joined the NSDAP. (Weltz, R. 7158). He also held membership in the National Socialistic Physicians Association and the National Socialistic Lecturers Association. (Weltz, R. 7158). In

August 1939, he entered the Luftwaffe with the rank of Stabsarzt (Captain) and at the end of the war, he held the rank of Oberfeldarzt (Lt. Col). (Weltz, R. 7159). After entry into the Luftwaffe in August 1939, the defendant operated the Pilots' Examination Post in Neubiberg and headed Test Station No. 4 (Bodenstaendige Pruefstelle IV) for high altitude research at Munich (R. 7042).

In the summer of 1941, the need for further research in high altitude became apparent as the air war was intensified. Therefore, Weltz's division at the Physiological Institute at Munich University was taken over by the Luftwaffe and renamed the "Institute for Aviation Medicine in Munich" (NO-677, Pros. Ex. 17, R. 113). Weltz was commissioned the director of this Institute by Generaloberstabsarzt Erich Hippke, Chief of the Medical Inspectorate of the Luftwaffe, and was given the authority to enlarge the Institute to a considerable degree. (Weltz, R. 7044, R. 7152). The field of research at the Institute included physical reactions of the pilot at high altitudes, reciprocity of respirations, and circulation, cooling, collapse, and revival of the pilot. (R. 114, Weltz, R. 7045).

In his capacity as Director of the Institute for Aviation Medicine in Munich, Weltz was subordinated to Luftgau #7 in Munich for disciplinary purposes, but for scientific matters, he was subordinated directly to Anthony, Chief of the Department for Aviation Medicine in the Office of the Medical Inspectorate of the Luftwaffe, under Hippke. (Weltz, R. 7159). It is noted that the defendant Becker-Freysong was assistant consultant under Anthony in the Department for Aviation Medicine, from 1941 until early in 1944 when he succeeded Anthony as chief of the department. (NO-669, Pros. Ex. 16, R. 110).

SIEGFRIED RUFF

The defendant Ruff specialized in the field of aviation medicine from the completion of his medical education at the Universities of Berlin and Bonn in 1932 (Ruff, R. 6490). In the early stages his work was mainly concerned with ascertaining whether the climatic conditions that are met at high altitudes could be used, in any way, for therapeutic purposes. In January 1934, the defendant was assigned to the German Experimental Institute for Aviation (Deutsche Versuchsanstalt fuer Luftfahrt), in order to establish a Department for Aviation Medicine. (R. 6491, R. 114). Ruff joined the NSDAP in 1938 and held a reserve commission as a Lieutenant in the Luftwaffe. (Ruff, R. 6493).

The Deutsche Versuchsanstalt fuer Luftfahrt, hereinafter referred to as the "DVL", was a registered association founded by private and governmental sources, in order to conduct research into the scientific basis for aviation. (Ruff, R. 6491). The association consisted of many institutes where the research was carried out. The DVL received instructions from the Luftwaffe, and Ruff's institute in particular was subordinated to the Medical Inspectorate of the Luftwaffe. Ruff received orders concerning technical or medical matters from the Medical Inspectorate and had to report to that office. (Ruff, R. 6493). The defendant Ruff remained in his position as Chief of the Institute for Aviation Medicine in the DVL until the end of the war. (NO-638, Pros. Ex. 18, R. 114).

The defendant Ruff's work at the institute was divided into three spheres: 1) Air accident science, 2) Speed in air flight, 3) High altitude research. Ruff's chief assistant in the institute was the defendant Romberg.

HANS WOLFGANG ROMBERG

The defendant Romberg was active in the sphere of aviation medicine since 1937. During the year 1937 he served in the Luftwaffe for a period of two months and in January 1938 joined the staff of the DVL in Berlin as an assistant to the defendant Ruff in the Institute for Aviation Medicine. Romberg joined the NSDAP in 1933. (R. 6765, NO-588, Pros. Ex. 19, R. 115).

The defendant Romberg was employed as a scientific co-worker with the defendant Ruff and his special assignment was the theoretical and practical evaluation of air accidents. In addition thereto, Romberg worked in air medical research questions. (Romberg, R. 6765). After the DVL, in the year 1939, received a low-pressure chamber the defendant concentrated his effort in the field of high altitude research to improve high altitude firmness with pharmacological means, the effectiveness of pervitin, investigation of parachute descent from high altitudes, explosive decompression, and many similar matters. (Romberg, R. 6767).

The defendants Woltz, Ruff, and Romberg used the foregoing positions and their experience in the field of aviation medicine in a manner which involved the commission of War Crimes and Crimes against Humanity as charged in the Indictment.

II. PERSONAL PARTICIPATION OF THE DEFENDANTS IN CRIMINAL EXPERIMENTS.

The proof has shown that the defendants with Woltz, Ruff and Romberg, participated in the planning and execution of the criminal high altitude experiments on inmates of the Dachau Concentration Camp. It has been further shown that the defendant Woltz participated in and was connected with plans and enterprises involving the freezing experiments at the Dachau Concentration Camp.

A. HIGH ALTITUDE EXPERIMENTS

Early in the war it was deemed necessary to conduct research in the field of high altitudes because of the higher ceilings reached by the Allied fighter planes. This created a problem of availability of human experimental subjects, inasmuch as animal experimentation was considered inadequate. The heights involved were 12,000 meters to better than 20,000 meters, hence it goes without saying that such experiments were very dangerous and, as indicated by the evidence, volunteers were not to be had. This difficulty was overcome by the use of concentration camp inmates without their consent. The first indication of this criminal plan appears in a letter from Dr. Sigmund Rascher, a Luftwaffe physician, in a letter to the Reichsfuehrer SS dated 15 May 1941:

"For the time being, I have been assigned to the Luftgau Kommando VII, Munich, for a Medical selection course. During this course, where research on high altitude flying plays a prominent part - determined by the somewhat higher ceiling of the English Fighter planes - considerable regret was expressed that no experiments on human beings have so far been possible for us because such experiments are very dangerous, and nobody is volunteering. I therefore put the serious question: is there any possibility that two or three professional criminals can be made available for these experiments?" (1602-PS, Ex. 44, R. 167, emphasis supplied).

It further appears in this Rascher letter of 15 May 1941 that Rascher had conferred with another Luftwaffe physician and that a tentative agreement had been reached wherein it was determined that the experiments on the concentration camp inmates, in which the experimental subjects were expected to die, would be performed at the "Bedonstandige Prufstelle fuer Hoehenforschung der Luftwaffe" at Munich:

"The experiments are being performed at the "Bodenständige Prüfstelle fuer Hoehenforschung der Luftwaffe" at Munich. The experiments, in which the experimental subject of course may die, would take place with my collaboration. They are absolutely essential for the research on high altitude flying and cannot, as it has been tried until now, be carried out on monkeys, because monkeys offer entirely different test conditions. I had an absolutely confidential talk with the representative of the Luftwaffe physician who is conducting these experiments. He is also of the opinion that the problems in question can only be solved by experiments on human beings." (1602-PS, Ex. 44, R. 167).

Rascher was taking a medical selection course in Munich at Luftgau VII where three important lectures concerning research on high altitudes were given by the defendant Weltz, Buechner, and Kottenhoff. (Weltz, R. 7049). In order to appreciate the significance of these lectures and the connection between Rascher, Weltz, Kottenhoff, and the experiments at Dachau it is necessary to consider the relative positions of Kottenhoff and the defendant Weltz to Rascher, the author of the letter to Himmler.

Kottenhoff was an Oberfeldarzt with Luftgau #7. He had worked with Weltz from 1938 to 1939 and had received his specialist training at the Physiological Institute at Munich. Kottenhoff qualified as a lecturer at Weltz's institute and conducted experiments on monkeys in his department. (Weltz, R. 7048). Weltz testified that Rascher approached Kottenhoff after the completion of the lectures on high altitude research and suggested that high altitude experiments be carried out at Dachau. (R. 7047). This suggestion made by Rascher was obviously the direct result of the effect made on him by the lectures he had heard. Rascher, realizing the dangers involved in these experiments, knew that further research was next to impossible due to the inability to obtain voluntary human experimental subjects and, after discussing the matter with Weltz and Kottenhoff, sent the letter to Himmler.

Rascher was able to make the necessary contact with Himmler because he, and especially his wife, knew Himmler personally. Moreover, Rascher was a member of the Allgemeine SS. But it should be kept in mind that throughout the course of both the high altitude and freezing experiments (at least until May 1943), Rascher was an officer in the Medical Service of the Luftwaffe and on active duty with the Luftwaffe. Thousands of men were members of the SS while actually serving with other branches of the Wehrmacht. Such, for example, was the case with the defense witness Gutzeit. It is a basic misconception, much fostered by all the Luftwaffe defendants, that the high altitude and freezing experiments were merely SS crimes. Nothing could be further from the truth. They are essentially no different from the sea water experiments. Rascher was subordinated to Weltz at least until May 1942 and remained on active duty with the Luftwaffe at least until May 1943.

We must note the remark in the Rascher letter re the "Bodenstandige Prufstelle fuer Hoeohenforschung der Luftwaffe" at Munich. This was the name of the institute in Munich headed by the defendant Weltz (Weltz, R. 7050), where he was concerned mainly with the physical endurance and reactions of pilots at high altitudes. Weltz stated that he was not in a position to give the permission to perform these experiments at his institute inasmuch as the necessary orders for such experimentation had to originate with the Luftwaffe Medical Inspectorate. (R. 7050, R. 7178). This of course, while bearing out the prosecution's contention that all matters of this sort were always brought home to the Medical Inspectorate, does not relieve Weltz from responsibility because, as we shall later see, he planned and arranged the execution of the experiments

himself as well as obtained the research assignment from the Luftwaffe Medical Inspectorate. Himmler gave his approval to the use of inmates for the proposed experiments shortly after receipt of Rascher's letter. (1582-PS, Pros. Ex. 45, R. 169).

It is interesting to note the affidavit of Kottenhoff, introduced by the defendant Weltz, (Weltz Ex. 4, R. 7052) substantiates Rascher's letter to Himmler to the effect that further experiments on human beings were considered necessary. Of course, Kottenhoff states Rascher's proposals immediately created a feeling of misgiving within him, but regardless of that he later took the matter up with Weltz. At this early date it must be considered that Rascher, Weltz and Kottenhoff were all members of the Luftwaffe and that Weltz was the superior of the other two. He took no action to halt this proposal to experiment on concentration camp inmates but to the contrary, he supported his subordinate Rascher in the criminal plan and obtained the collaboration of Ruff and Romberg as well as the research assignment from the Department of Aviation Medicine under Anthony and Becker-Freysong.

Weltz testified that a meeting took place in the summer of 1941 on the occasion of a visit by General Oberstabsarzt Hippke to Luftgau #7. (R. 7056). In a discussion between Weltz, Kottenhoff and Hippke, Hippke gave his basic approval to the experiments if they were deemed necessary. (R. 7065). In the course of the summer of 1941, Rascher went to Weltz and proposed the slow ascent experiments, but Weltz turned it down as unnecessary (R. 7176). This testimony of the defendant Weltz clearly indicates the jurisdiction Weltz had over Rascher's activities. This refusal to permit the performance of slow ascent experiments bears out the

contention of the prosecution that the defendant Weltz had the power and the authority to intervene at any time. Weltz's actions throughout the entire development of the plans for the experiments were not merely negative. He was in full accord with the entire enterprise and he realized that Rascher did not possess the necessary qualifications to conduct these experiments without the assistance of a specialist in this particular field of aviation medicine. Furthermore, Rascher was attached to Weltz's institute and was idle. (Weltz, R. 7078, R. 7187). To find a specialist to collaborate with Weltz and Rascher proved to be a difficult task. Weltz first approached members of his own institute, namely Lutz and Wendt, men of considerable reputation in this field, but to no avail. Wolfgang Lutz appeared before this Tribunal and testified that Weltz requested his assistance, as well as the assistance of Wendt, but that they both refused on moral grounds. (R.269). Weltz did not deny this, but contended that his questions to Lutz were purely rhetorical. (R. 7069).

The inability to interest a specialist in the field of high altitude research to collaborate with Rascher explains the cause for the lapse of time between the date of the authorization by Himmler and the actual date of the commencement of the experiments, e.g., July 1941 to February 1942. Weltz was not a specialist in high altitude research, Kottenhoff was transferred to Rumania, and Rascher was comparatively a novice in this field.

The next step taken by Weltz which led to the completion of the plans to conduct the high altitude experiments on human beings at the Dachau Concentration Camp was his invitation to the defendants Ruff and Romberg to collaborate with Rascher. These two men were experts in this field and were interested in further research in altitudes exceeding 12,000 meters. Weltz testified that he

made a trip to Berlin and that Ruff accepted his invitation to collaborate with Rascher. (R. 7188). The evidence shows that Weltz approached Ruff and Romberg as he needed expert assistance. (NO-437, Pros. Ex. 42, R. 161; NO-263, Pros. Ex. 47, R. 172; NO-191, Pros. Ex. 43, R. 163). The defendant Ruff stated that he first heard of the plan to carry out research on inmates of the Dachau Concentration Camp from the defendant Weltz and that Weltz desired collaboration between Romberg and Rascher and between Weltz's institute and Ruff's institute. (R. 6653). Furthermore, Ruff testified that Weltz stated:

"It is, of course, best if you or Romberg take part in these experiments because Romberg had already carried out such parachute descent experiments and is, therefore, the man who has carried out such experiments and knows about the whole problem of rescue from high altitudes." (R. 6655).

Ruff further testified that Weltz suggested a new experimental series of experiments in parachute descents from great heights should be carried out at Dachau on prisoners. (Ruff, R. 6653).

From this moment on, the experimental program started to move as a mutual undertaking. This is better stated by the defendant Weltz:

"This was to be a mutual undertaking, during which Ruff was to detail Romberg and I was to detail Rascher. Ruff naturally was to be chief of Romberg and I, as a matter of course, was to be Rascher's chief. Ruff couldn't give any orders to Rascher. Rascher was a Captain in the Medical Corps and Ruff was a civilian. I couldn't give any orders to Romberg because Romberg was a civilian while I was a soldier. Naturally, this is how the distribution was. It had to be that way. Furthermore, it was clear that I couldn't in any way retire. I couldn't just leave Rascher to Ruff. It was quite clear that I had to participate in these experiments by exercising supervision, but not by actively participating." (Weltz, R. 7079).

This evidence certainly rebuts Weltz's vague contention that he was not in search of specialists in high altitude research to collaborate with him and Rascher. Without the efforts of Weltz the experiments could never have taken place. In brief, to conduct these experiments at altitudes exceeding 12,000 meters Weltz found it necessary to secure the assistance of experts in the field, as well as a low pressure chamber which would meet his needs. Ruff and Romberg possessed both, and in the above manner Weltz skillfully engineered the whole plan.

Immediately after Weltz had completed his negotiations with Ruff, he called a meeting at his Institute in Munich, wherein discussions of a technical nature concerning the experiments were held. At this meeting, Ruff, Romberg, Rascher and Weltz were in attendance. This meeting was at Weltz's Institute and Weltz presided over the meeting. It was further decided that a second meeting was to be held at Dachau a few days later in order to make the necessary arrangements with the camp commander. This trip took place in order to discuss technical preparations with the camp commander and to arrange details concerning the selection of the experimental subjects. Again, Weltz, Ruff, Romberg and Rascher were in attendance, in addition to Piorkowski, the camp commander, and Schnitzler of the staff of the Reichsfuehrung SS. (NO-476, Pros. Ex. 40, R. 155; NO-437, Pros. Ex. 42, R. 161; NO-263, Pros. Ex. 47, R. 172; Weltz, R. 7086-7).

After the arrangements with the camp authorities at Dachau had been completed, then the shipment of the low-pressure chamber from Berlin was the next problem to overcome. As pointed out earlier, Weltz desired the low-pressure chamber which was possessed by Ruff and Romberg for use in the experiments at Dachau. It is interesting to note that Weltz had had a low-pressure chamber available in his own Institute from 1938 on, (Weltz, R. 7178),

and that Weltz testified that volunteers from his student body or from the Luftwaffe were available. (Weltz, R. 7180-83). Despite this, it was necessary to resort to the concentration camp for inmates and, in order to conduct the experiments, a mobile pressure chamber had to be brought down from the Ruff Institute in Berlin inasmuch as the low-pressure chamber in the Weltz Institute was not mobile. The mobile low-pressure chamber from Ruff's Institute at Berlin was driven to Weltz's Institute in Munich and arrived in the late afternoon. This chamber was driven to Munich by employees of the DVL and turned over to Weltz. On the following day, SS drivers came from Dachau, received the keys to the chamber and drove same to the concentration camp. (Weltz, R. 7199). The purpose in camouflaging this activity was to deceive the employees of the DVL because Weltz and Ruff did not want them to know that the low-pressure chamber was to be used in an experimental program at a concentration camp. This is borne out by the fact that a completely new set of drivers came from the concentration camp to take the chamber to Dachau. This particular action of secrecy is noticeable when it is considered that Dachau is merely 12 kms from Munich and actually the DVL drivers had to go out of their way to deliver the chamber to the Weltz Institute. Ruff testified that the secrecy in the transfer of the chamber to Dachau was for security reasons. (Ruff, R. 6550).

From the evidence thus far summarized, and indeed from Weltz's own admission, it is clear that he must be found guilty of the high altitude crimes committed in Dachau. This was a criminal undertaking from its inception. It was known to all concerned that the proposed experiments were certain to result in deaths and that they were to be performed on non-volunteers. That is proved by the very first letter to Himmler. Weltz supported the

ambition of his subordinate Rascher to perform the experiments on behalf of the Weltz Institute. He secured the collaboration of Ruff and Romberg. He obtained the consent of Hippke and a research assignment from the Referat for Aviation Medicine under Anthony and Becker-Freyseng. He took care of the technical arrangements and participated in conferences with Ruff, Romberg, and Rascher which decided on the experiments to be performed. Weltz did more in having the experiments performed than anyone else. His guilt is clearly established on this evidence alone. It is not disputed that Rascher was subordinated to him until February 1942. Weltz's main defense is that he had Rascher transferred from his Institute late in February 1942 and, hence, cannot be held responsible for what happened thereafter. Even if true, this is no defense. Weltz had long since participated in the criminal enterprise. He cannot be heard to say that "Yes, I did all of that, but I'm not responsible for the very consequences which my acts were anticipated to bring about". The deaths which occurred in these experiments were foreseeable from the beginning. Weltz does not escape responsibility for those deaths, even if it were true that Rascher was not subordinated to him when they occurred. But that is not true, as the evidence proves.

The actual date of the commencement of the experiments at Dachau was 22 February 1942, which was recalled by the witness Neff because it was his birthday. (Neff, R. 606). From this point on, the defendant Weltz takes the position that he had no knowledge of the work and that, in fact, Rascher was relieved from his command. Weltz admitted that it was his obligation to supervise Rascher and that the existing arrangement between Ruff and Weltz was that this was to be a joint undertaking. Ruff exercised supervision over Romberg and Weltz was to exercise

supervision over Rascher. Weltz conceded that he was Rascher's disciplinary superior and was responsible for the scientific programs to which he assigned Rascher. (Weltz, R. 7088). Despite this chain of command and working agreement, Weltz takes the position that Rascher endeavored to work independently and that he did not desire to report to Weltz. (Weltz, R. 7088-9). It became necessary for Weltz to order Rascher to report to him twice a week and, as a result of this order, Weltz alleges that Rascher came to him in the middle of February and that they had their first conversation since the meeting in Dachau and on that occasion, Rascher informed Weltz that the experiments had not even started yet and that he had nothing to report. (Weltz, R. 7089).

Weltz testified that Anthony, under whom Becker-Freyseng worked in the Luftwaffe Medical Inspectorate, in Berlin, phoned him to inquire how the Dachau experiments were progressing and that he could only reply that nothing had been reported to him. Rascher reported to him for the second time, whereupon Weltz informed Rascher that a telephone call came through from Berlin and that he wanted to have some clarification as to how things stood at Dachau. Rascher did not want to report anything to Weltz at the second conversation, and Weltz maintains that he told Rascher that he was going to Berlin to clear up the situation and obtain a clear decision whether or not Rascher was to report to him. Then, on the occasion of the third visit from Rascher, Weltz, expecting a sharp argument, asked Wendt of his office to come into the room, and on that occasion he confronted Rascher with the alternative, either to report to him or to leave the Institute. Weltz asserts that at that time Rascher showed him a telegram from Himmler, which read: "Experiments are to be kept secret from everyone." (Weltz, R. 7090). Thereupon, Weltz maintains that he

ordered Rascher from his Institute and that he then composed a letter, together with Wendt, to the Luftgau and asked for Rascher's immediate transfer and that within a few days, Rascher's assignment had ended. (Weltz, R. 7090).

The memorandum of Nini Rascher to Himmler of 24 February 1942 shows that at that time Rascher was still subordinate to Weltz. (NO-263, Pros. Ex. 47, R. 172). She reviewed the history of the experiments and pointed out that on 24 July 1941 Rascher, Kottenhoff and Weltz were to be in charge. Kottenhoff was transferred to Rumania in August and thereby excluded from the group. She stated that it was Weltz' task to initiate the technical execution of the experiments. Apparently because of a fear of moral objections on the part of Hipke, Weltz had postponed the beginning of the experiments but had finally secured Ruff and Romberg to collaborate with Rascher. A conference took place in Dachau between Piorkowski, Schnitzler, Weltz, Rascher, Romberg and Ruff. Weltz had given the assurance that he would take care of the authorization for Rascher. Mrs. Rascher complained that on 18 February after Rascher had carried out all the preparatory work, Weltz stated that: "Now that you have removed all obstacles from the path of Romberg with the SS, the authorization must be handled differently". Mrs. Rascher stated that both Romberg and Rascher agreed that Weltz was not needed any more and that both opposed his attempts to oust Rascher in favor of himself.

Weltz contended that the truth of the matter was that he wished to get rid of Rascher, and that Mrs. Rascher had misrepresented this to Himmler so that it would appear that he was trying to eliminate Rascher in order to keep the work exclusively to himself. (Weltz, R. 7099). There can be no question that Mrs. Rascher was quite correct in her analysis of the situation. What possible reason could Weltz have for

desiring, at a time just before the experiments began, to eliminate Rascher unless he wished to participate himself personally and thus secure a larger share of the scientific credit. Certainly he had supported Rascher from the very inception of the proposal to perform the experiments. Be that as it may, the proof shows that Rascher continued to participate in the experiments as a subordinate of Weltz. This is clearly proved by a file memorandum of Schnitzler of the SS office in Munich, dated 28 April 1942. (NO-264, Pros. Ex. 60, R. 194). This memorandum shows on its face that Rascher was still subordinated to Weltz, and that Weltz was insisting on active participation in the experiments and full responsibility. The RLM had enquired of Weltz how long the experiments would last, and whether it was justifiable to detail a medical officer for so long. Rascher, who was chafing under his subordination to Weltz, requested that his assignment be changed to the DVL, Branch Dachau.

Weltz' only reaction to this document was that the date was wrong and should read 28 February 1942 instead of 28 April 1942. (R. 7099 et seq.). Weltz conceded on cross-examination that, assuming the date 28 April 1942 was correct, then of course Rascher was still his subordinate at that time. (Weltz, R. 7232). The file memorandum of Sievers dated 3 May 1942 settled this question beyond any doubt. This memorandum reads as follows:

"SS-Untersturmfuhrer Stabsarzt Dr. Rascher reported in Munich on 29 April 1942 about the result of the conference with Oberstabsarzt Dr. Weltz. Weltz requested that Dr. Rascher be withdrawn in the case that he (Weltz) would not be invited to attend the experiment until Friday, 1st May 1942. The Reichsfuhrer SS was informed accordingly. He ordered SS-Obergruppenfuhrer Wolff on 30 April 1942 to send a telegram to Fieldmarshal Milch requesting Dr. Rascher's detail to the German Experimental Institute for Aviation (Deutsche Versuchsanstalt fuer Luftfahrt) Dachau branch, and that at the disposal of the Reichsfuhrer-SS." (NO-1359, Pros. Ex. 493, R. 7338).

After having been confronted with this document Weltz in effect conceded that his previous testimony about the transfer of Rascher had been, to say the least of it, incorrect. He said:

"Yes, now the entire matter looks somewhat different. If I had this file note of Sievers in addition to my other documents, I would have known that the note of Schnitzler was correct, and that there must be another possibility to explain Mrs. Nini Rascher's letter. This letter, on the other hand, cannot be explained now. I can only try to reconstruct the dates from the documents which were available here, since I no longer know them today." (Weltz, R. 7239).

On re-direct examination by his defense counsel, Weltz was asked again to clarify the situation with respect to Rascher's subordination, and he replied:

"Since my first attempt to clarify this contradiction came to naught I should like to try again. I simply can see no way to clarify it on the basis of the material before me". (Weltz, R. 7251)

In a letter of 20 May 1942 from Milch to Wolff it is again made evident beyond any doubt that Rascher was subordinate to Weltz:

"In reference to your telegram of 12 May our sanitary inspector reports to me that the altitude experiments carried out by the SS and Air Force at Dachau have been finished. Any continuation of these experiments seems essentially unreasonable. However, the carrying out of experiments of some other kind, in regard to perils at high sea, would be important. These have been prepared in immediate agreement with the proper offices; Major Weltz will be charged with the execution and Capt. Rascher will be available until further order in addition to his duties within the medical corps of the Air Corps." (343a-PS. Pros. Ex. 62, R. 200).

Thus it is clear that Weltz must be held responsible for the numerous murders which resulted during the high altitude experiments in Dachau. Not only did he participate in plans and enterprises involving the commission of these experiments, but he also was the direct superior of Rascher who, together with Ruff and Romberg, actually executed the experiments.

Status of Prisoners Used in the Experiments

After Woltz had successfully secured the collaboration of Ruff and Romberg, he held a meeting at his Institute in Munich late in December 1941 or early in January 1942. (Ruff, R. 6657; Woltz, R. 7086). Ruff, Romberg, Woltz, and Rascher attended this meeting primarily to lay the groundwork for the technical arrangements necessary to perform the work at Dachau. It is alleged by all the defendants that the question regarding the status of the prisoners to be used was discussed and that Rascher had assured them that the subjects would be exclusively volunteers. (Woltz, R. 7086; Ruff, R. 6232; Romberg, R. 6869). In fact, the defendants state that Rascher exhibited a communication from Himmler which provided that the subjects must be volunteers under all circumstances. (Romberg, R. 6869). Unfortunately, this letter has not been produced by the Defense. Needless to say, the defendants take the position that such experiments were to be performed on habitual and condemned criminals and that considerations were to be offered to said "volunteers" in the event that they survived the experiments. As a matter of fact, Romberg explicitly states that he saw the "Himmler letter" and he was able to observe the words "criminal" and "volunteer" therein. (Romberg, R. 6870).

The assertion on the part of the defendants that Himmler had ordered that the criminals used be volunteers is ridiculous and incredible when it is considered that Himmler instructed Rascher to pardon these unfortunate inmates only when they could be recalled to life after having been subjected to the type of experiments outlined in Rascher's first interim report, wherein it is shown that the experimental subjects had stopped breathing altogether and had their chests cut open, i.e. they had been actually autopsied. (1971a-PS, Pros. Ex. 49, R. 175).

In this instance, Himmler graciously stated:

"3. Considering the long continued action of the heart, the experiments should be specifically exploited in such a manner as to determine whether these men could be recalled to life. Should such an experiment succeed, then, of course, the person condemned to death shall be pardoned to a concentration camp for life." (1971b-PS, ProsiEx.51, R. 180).

It is absurd to give any weight to the allegation that Himmler provided that the subjects were to be volunteers. These men knew that volunteers could not be secured and that was the very reason for going to Himmler. This is shown in the letter from Rascher to Himmler requesting that criminals be made available due to the fact that "nobody is volunteering." (supra).

The defendant Ruff admitted on the stand that the experiments conducted on themselves and colleagues in Berlin extended up to an altitude of 12,000 meters and that the question of what would happen between 12,000 and 20,000 meters was subsequently investigated at Dachau. (Ruff, R. 6679). It is obvious, therefore, that Ruff, Romberg, Weltz, and Rascher were unwilling to perform such investigations on themselves.

The evidence has proved that the subjects used in the high altitude experiments were not, with a few minor exceptions, volunteers. The inmates were simply selected at random in the camp and forced to undergo the experiments. Russians, Poles, Jews of various nationalities, and Germans were used. Russian prisoners of war were included as were many political prisoners. Approximately 180 to 200 inmates were experimented on with about 70 to 80 being killed as a result. Not more than 40 of these had been "condemned to death". Among those killed were political prisoners. (Neff, R.613-18; see also Veiweg, R. 432). This testimony of Neff, who was the inmate assistant in the experiments and who

identified Ruff, Romberg, and Woltz is corroborated by Rascher's cable asking if Himmler's amnesty rule applied to Russians and Poles who had been extensively used in the experiments. (1971(d)-PS, Pros. Ex. 52, R. 183). The nationality and status of inmates was easily discernable from the badges worn on their uniform. Ruff and Romberg could have told from these that foreign nationals and political prisoners were being used. (Neff, R. 616-7).

The witness Neff's testimony reveals that approximately ten prisoners were selected as permanent experimental subjects, but they were not volunteers. (Neff, R. 611; 622; Vieweg, R. 430). There were however, a few "volunteers" according to Neff. He stated that "there were certain volunteers for these experiments, because Rascher promised certain persons that they would be released from the camp if they underwent these experiments". (Neff, R. 614). Neff clearly pointed out that in view of the way the prisoner-subjects were selected and used, it was not possible to know who were volunteers, if any, and who were not volunteers. (Neff, R. 606-26). They were not brought in and used as a separate group. Moreover, the evidence shows that these promises were not kept. (R. 615. The only evidence of a release is the case of Sobota as outlined by Neff and in that case, he was sent to an undesirable special SS commando group. No death sentences were commuted.

The defense claims for Ruff and Romberg that the experiments at Dachau were divided into two groups. The "first group" the so-called Ruff-Romberg-Rascher experiments, were non-criminal while the second group, the Rascher experiments, encompassed all the crimes. They contend that the Ruff-Romberg-Rascher experiments were conducted independently of the Rascher experiments and that the ten original subjects mentioned by Neff and Vieweg were used exclusively

for the Ruff-Romberg-Rascher experiments. Despite the testimony of the witnesses and the weight of the documentary evidence, they would have the Tribunal believe that by a wondrous working of fate these were all volunteers and no crimes occurred. This defense is of course inapplicable to Weltz. Rascher was subordinated to and subject to his orders.

It should be noted that Romberg and Rascher, who ascended in the altitude chamber at Dachau to 12,500 and 13,500 meters, respectively, for 30 to 40 minutes, discontinued these experiments on themselves because of intense pain. (NO-402, Pros. Ex. 66, R. 213). Yet, these men proceeded, as proved by their own joint report, to conduct experiments on prisoners which would not perform on themselves.

The experimenters took no responsibility or even interest in seeing to it that the alleged promises made to the subjects to induce them to "volunteer" were kept. (Romberg, R. 6993). Although Romberg said he had no channel to Himmler, he also admitted he visited Himmler with Rascher in July 1942. (Romberg, R. 7015-6).

In this connection, we must consider the convenience of the defense. By limiting the Ruff-Romberg-Rascher experiments to the ten subjects, we find that they further allege that no deaths occurred in those experiments as opposed to a considerable number of deaths in the Rascher work. But, the witness Neff, in describing the first day of the experiments, emphatically stated that the first series of experiments was not carried out on volunteers. Furthermore, the defendant Ruff was also present during these experiments. (Neff, R. 622). The defendants' contention that the experiments were in two groups is explicitly denied by Neff. He testified that Romberg not only experimented with Rascher on the original ten subjects, but also

on a large number of other prisoners. The distinction fabricated by the defendants cannot possibly be credited in the light of Neff's testimony. On being asked the question whether Romberg experimented only on the ten original subjects, Neff replied: "Experiments were conducted not only with these ten persons but, for example, in a series of experiments which Romberg also conducted on a large number of other prisoners. The distinction which the Defense Counsel tries to make between experiments included in the report to the Luftgau or of death, it is impossible for me to make this distinction and to distinguish between those which fell into one category or the other."

(R. 691). Who is to be believed, the testimony of Neff, plus one's common sense, or the self-serving statements of the defendants? This is a question the Tribunal must answer. There is no such thing as half a murderer.

These defendants are responsible for these murders or they are not responsible. There is not one scintilla of evidence to support the ridiculous contention that a group of volunteers was segregated for use by Romberg, who wore different colored shirts so he could tell them apart, and who were treated with the greatest of deference. But that is just what Ruff and Romberg ask the Tribunal to find. It is absolutely impossible on the face of the record.

This alleged disassociation of Ruff and Romberg from the "crimes committed exclusively by Rascher" is in complete contradiction to the acts of these defendants during the experiments, which after all speak much louder than their present testimony. Neff testified that Romberg personally witnessed at least five deaths during the experiments, and that he made no effort to stop them nor did he even protest after the event. (R. 619). Romberg admitted seeing three deaths and that he knew that five to ten other murders took

place in his absence. (NO-476, Pros. Ex. 40, R. 155). The first death Romberg saw, he said occurred in April. He reported this to Ruff. Yet the experiments were not discontinued. They went on to the end of June and still more deaths occurred which Romberg saw. To say the least of it, these defendants made themselves a party to murder by continuing the experiments. This is true no matter how innocent they may have been up until the first death. They were under a duty to stop the experiments immediately, remove the chamber, and force a court martial of Rascher. They did none of these simple and obvious things. They did not for the very reason that the deaths were expected from the very beginning and were a part of the experimental plan. Romberg saw these men die and did absolutely nothing. It was within his power to save them at the time. He said he was operating the electrocardiograph. He knew precisely when the subjects were in danger of dying by their heart action. He also knew this from his knowledge of reaction to high altitudes. He could see and read the pressure gauges. He could have turned the pressure down and saved their lives by simply moving the gauge which was within arms reach. He was a bigger man than Rascher. Force could have been used if necessary. Not only did he do nothing while the helpless victims died before his very eyes, but he assisted in the bloody autopsies.

After all these murders occurred and were known to Ruff and Romberg, they still went on. They issued a joint report on the experiments in the name of Ruff, Romberg, and Rascher in July 1942. (NO-402, Pros. Ex. 66, R. 213). They were still collaborating with this admitted murderer and gave him the cover of their scientific reputation. Romberg received a medal for his work in the experiments on the recommendation of Rascher. (1607(a)-PS, Pros. Ex. 65, R. 204). Romberg was still supporting Rascher in

September 1942 and was to make an oral report to Milch on the experiments with Rascher. He wrote a memorandum on Rascher's behalf explaining that the report was not given because Milch was unable to receive them at the scheduled time. This same memorandum, signed by Romberg, proves that he was anxious to continue high altitude experiments with Rascher and asked for Milch's permission. He wrote: "Oberstarzt Kalk stated that he was willing to report to the Secretary of State (Milch) our wishes concerning the fixing of distribution (of the report) and the continuation of the experiments. ...Oberstarzt Kalk had transmitted, still on September 11, our wishes concerning distribution and continuation of the experiments to the Secretary of State. The Secretary of State had approved distribution schedule, and said that a continuation of the experiments was not urgent." (NO-224, Pros. Ex. 76, R. 223). In the meantime, the murderous freezing experiments had been started with the Luftwaffe team of Holzloehner, Finke, and Rascher. Ruff, Romberg, and Woltz all heard the report of those experiments in Nurnberg in October 1942. (NO-401, Pros. Ex. 93, R. 309). Hippke himself wrote of his special thanks to Himmler on October 8, 1942, and said: "When the work will need once more your sympathetic assistance, may I be allowed to get in touch with you again through Stabsarzt Dr. Rascher. (NO-289, Pros. Ex. 72, R. 216).

If the testimony of Ruff and Romberg is deemed credible by the Tribunal, then the documents of their own making and the testimony set forth above must be rejected as untrue. The alleged disassociation of Ruff and Romberg, and indeed of the whole Luftwaffe, from the crimes of their collaborator Rascher cannot be reconciled with the undisputed acts of these defendants. The choice is clear.

Analysis Of The Experiments

The experiments at Dachau in the field of high altitude research were conducted to determine human reactions to altitudes above 12,000 meters. The defendant Romberg stated that four series of experiments were conducted: a) slow descent without oxygen, b) slow descent with oxygen, c) falling without oxygen and d) falling with oxygen. (NO-473, Pros. Ex. 40, R. 155) The first two tests were designed to simulate descent with parachute open while the latter two a free fall from an airplane before the parachute opens. As pointed out in Dr. Rascher's first interim report on the experiments, an additional problem was to be solved, namely, the determination whether the theoretically established norms pertaining to the length of life of human beings breathing air with only a small portion of oxygen and subjected to low pressure correspond with the results obtained by practical experience. This interim report of Rascher's states as follows:

1. Experiments testing the length of life of a human being above the normal breathing limits (4, 5, 6 km) have not been conducted at all, since it has been a foregone conclusion that the human experimental subject (Versuchsperson - VP) would suffer death.

The experiments conducted by myself and Dr. Romberg proved the following:

Experiments on parachute jumps proved that the lack of oxygen and the low atmospheric pressure at 12 or 13 km altitude did not cause death. Altogether 15 extreme experiments of this type were carried out in which none of VI died. Very severe bends together with unconsciousness occurred, but completely normal functions of the senses returned when a height of 7 km was reached on descent. Electrocardiograms registering during the experiments did show certain irregularities, but by the time the experiments were over the curves had returned to normal and they did not indicate any abnormal changes during the following days. The extent to which deterioration of the organism may occur

due to continuously repeated experiments can only be established at the end of the series of experiments. The extreme, fatal experiments will be carried out on specially selected VPs, otherwise it would not be possible to exercise the rigid control so extraordinarily important for practical purposes. (1971a-P5, Pros. Ex. 49, R. 175) (Emphasis supplied).

Thus, it is clear that the experiments were planned and executed with the intention that some were to terminate fatally. This report covered the period up to the first week in April and mention of deaths and autopsies is made. This quite obviously was the instance when Rosenberg says he saw his first death and autopsy, although he tends to place the date as the latter part of April. (NO-476, supra). If the experiments had been stopped there the lives of many subjects would have been saved.

The defendants argue that, while the experiments may have killed persons, they did not involve torture and pain. This is on the theory that the subjects lost consciousness before any sensation of pain. This anomalous defense is completely disproved by the photographic exhibits showing the expressions of pain of the subjects (NO-610, Pros. Ex. 41, R. 158) as well as the defendants own report on the experiments. (NO-402, Pros. Ex. 66, R. 213). The reactions of one subject was described in terms such as "severe altitude sickness, spasmodic convulsions". In a self-experiment by Rosenberg and Rascher, the latter's reactions were described as follows: "After 10 minutes stay at this altitude, pains began on the right side with a spastic-paralytic condition of the right lip which increased continually as though Ra's whole right side were being crushed between two presses. At the same time there were most severe headaches as though the skull

were being burst apart. The pains became continually more severe so that at last the discontinuation of the experiment became necessary". There is no case on record where an experiment on an inmate was discontinued because of pain.

Ruff and Romberg take the position that they would be most unwilling to kill prisoners in the course of an experiment. They insist that their experiments with Rascher were concerned with the problem of explosive decompression and on parachute descent from high altitudes, whereas Rascher alone worked on sojourn or a more prolonged stay at high altitudes, and that it was in Rascher's experiments that prisoners were killed. This again is the artificial division of the experiments into the criminal and non-criminal which has already been proved to be spurious. But here again, the two self-experiments which Ruff, Romberg and Rascher included in their joint final report as mentioned above were experiments on prolonged stay at high altitude, a subject which they now claim was exclusively Rascher's. The only reason that this experiment did not end fatally was the fact that it was interrupted in time because of intense pain. Moreover, on page 11 of the final report by Ruff, Romberg, and Moltz the following is said: "This is worthy of special attention because in this case a person has fully recovered mentally at an altitude of 8.5 km (27,230 ft.), after three minutes of the most severe lack of oxygen, while in altitude endurance experiments at this altitude severe altitude sickness sets in after about 3 minutes." (FO-402, supra); emphasis added). Here, again, it is proved from their own report that Ruff and Romberg, as well as Rascher, were concerned with sojourn at high altitudes.

Experiments, in which prisoners were killed, are reported in Rascher's report to Hammler of 11 May 1942. (NO-220, Iros Ex. 61, R. 195). Some prisoners were killed by keeping them at 12,000 meters without oxygen for thirty minutes; one was killed at 20,000 meters when exposed there for about six minutes without oxygen. These prisoners were autopsied to ascertain if bubbles of gas, called air embolism in Rascher's report of May 11, 1942, were present in the blood vessels of the brain and other organs when dissected under water. Some "Jewish professional criminals who had committed Lössenschande (race pollution)" were killed for another reason:

"To find out whether the severe psychological and physical effect, as mentioned under No. 3, are due to the formation of embolism, the following was done: After relative recuperation from such a parachute descending test had taken place, however before regaining consciousness, some experimental subjects were kept under water until they died. Then the skull and the cavities of the breast and of the abdomen had been opened under water, an enormous amount of air embolism was found in the vessels of the brain, the coronary vessels and the vessels of the liver and the intestines, etc."
(NO-220, supra).

It should be noted that these murders were committed in connection with the parachute descending tests, not prolonged stay at high altitudes, and this was the very subject being studied by Ruff and Romberg. Romberg testified that he was present at the death of three of these prisoners, one in April and two in May 1942, and witnessed an autopsy of one, in which gas bubbles were present in the blood vessels of the brain. He reported these deaths to Ruff. (NO-473, Iros. Ex. 40, R. 155; Romberg, R. 5903, R. 5926-8). Heff testified Romberg was present in five cases where fatalities occurred (Heff, R. 619, 692) and Romberg admitted that he knew that five to ten other experimental subjects were killed while he was not present. (NO-473,

Pres. Ex. 40, R. 155). Neff stated that Romberg actively participated in the majority of the experiments. He observed the experiments, took notes and studied the electrocardiogram and thus was able to determine when an experimental subject in the chamber was about to die. (Neff, R. 551).

It is incredible that Dr. Ruff was not informed regarding the finding of bubbles in the blood vessels of the brain since such observations in human beings who have died following too rapid atmospheric decompression, is a very, very unique event, though bubbles had been observed many times prior to 1942 in the blood vessels of laboratory animals. It is inconceivable that Dr. Ruff, or anyone else in the field of aviation medicine, had not heard of the bubble theory of the cause of joint pains, coughing, blindness or paralysis, or the symptoms of the pressure drop sickness, which may occur on exposure to high altitude, since this theory was well known in literature and text books of aviation medicine available since 1938. How else would Rascher have had occasion to look for the bubbles? He either learned of the theory during a course in aviation medicine or was told about it by Ruff and Romberg, who knew much more than Rascher about aviation medicine.

It is fantastic that Ruff, Romberg and Rascher did not have in mind the observations of bubbles in the blood vessels of the murdered prisoners, when, in the final joint report of July 28, 1942, they wrote:

"In spite of the relatively large number of experiments, the actual cause of the severe mental disturbances and bodily failures (paralysis, blindness, etc.) attendant upon post-hypoxemic twilight state remains something of a riddle. It appeared often as though the phenomena of pressure drop sickness had combined with the results of severe oxygen lack." (NO-402, Pres.

It has been the theory for some time that the symptoms associated with decompression or pressure drop sickness may be due to the formation of gas bubbles (air embolism) in the blood vessels of the brain or in the regions of the joints or in the blood vessels of the lungs. When the bubbles collect in the blood vessels of the brain, they are supposed to cause a physical or mental disturbance or paralysis. When the gas bubbles collect in the region of the joints, they are supposed to cause pain in the region of the joints. When the bubbles collect in the blood vessels in the lungs, they are supposed to cause the chokes or attacks of coughing. That has been a theory that has been held for some 15 or 20 years, and an expert in the field of aviation medicine could not have been unaware of it. (Ivy, R. 9098-9). Since Rascher had observed bubbles as is described in his report of 11 May 1942 and since Ruff and Romberg had complete knowledge of the deaths, obviously these important findings of Rascher on air embolism did not escape the attention of Ruff and Romberg. It can only be concluded that these findings, which resulted from intentioned deaths, form the basis of the paragraph quoted above from the final report. Because of the nature of the subject matter, and a prior knowledge of the observations in the autopsies in the experiments, the ideas expressed in the paragraph quoted above cannot be separated from those in the Rascher report of 11 May. So testified the expert witness Dr. A. C. Ivy. (Ivy, R. 9151). All of this proves again that the testimony of Ruff and Romberg to the effect they had nothing to do with the so-called "Rascher experiments" is completely false. Even though deaths are not specifically mentioned in the joint report of July 28,

it is clear from Dr. Ivy's testimony that the findings in the death cases form the basis for a part of that report.

Ruff and Romberg would have the Tribunal believe that the experiments were completed and the chamber removed from Dachau by 20 May 1942. Since Romberg knew of and reported on the deaths to Ruff in April, there clearly was no excuse whatever in leaving the chamber in Dachau for even another day. But according to their own story, it stayed until 20 May and Romberg saw two more men killed. They attempted to gloss over their criminal participation in these later murders by saying that the chamber could not be moved without orders from the Luftwaffe Medical Inspector. Be that as it may, such a technical violation of moving the chamber without orders is hardly comparable to the crime of leaving the chamber for further experiments by a man they admit knowing to have been a murderer. Indeed, any decent superior who was not himself a party to the crime, as they actually were, would undoubtedly have court-martialled Ruff and Romberg for leaving the chamber there, not to speak of Rascher.

But it is not true that the chamber left Dachau on 20 May 1942 as they perjurally stated. They seized upon this date from Milch's letter to Wolff stating that the chamber was needed elsewhere. (343a-PS, Pros. Ex. 62, R. 200). There clearly was an intention to transfer the chamber, but it was not in fact moved and this was undoubtedly due to the joint efforts of Ruff, Romberg, and Rascher. Romberg was anxious to continue his criminal work with Rascher in September 1942 as has been pointed out above. In any event, on 4 June 1942 Milch authorized retention of the chamber in Dachau for two more months. (HO-361, Pros. Ex. 63, R. 202). On 23 June this order was

passed on to Rascher by Heckenstaller, adjutant to Wolff, reference being made to a letter of 5 June from Rascher. (NO-284, Pros. Ex. 64, R. 203). These documents prove beyond doubt that the chamber remained in Dachau until July 1942.

The testimony of Neff not only proves that the experiments continued until July 1942 but also that Rosenberg was presented with a remarkable opportunity to discontinue the experiments without any trouble whatever. Neff stated that Rosenberg told him in the latter part of May that the chamber was to be transferred (undoubtedly as a result of Milch's letter of 20 May which was later countermanded) and, under the impression that Rosenberg might not be in favor of any continuation of the experiments, he sabotaged the chamber by breaking a glass barometer in order to be sure the chamber left. Instead of seizing this opportunity for stopping the experiments by removing the damaged chamber, Rosenberg rushed to Berlin, obtained spare parts, and in a matter of two weeks had the chamber functioning again for more murderous experiments. (R. 623-4). The chamber was used for another three weeks after it was repaired and five persons were killed on the last day of the experiments. (Neff, R. 624). While the defense attacked Neff on cross-examination concerning the sabotage of the chamber (R. 663), by the time Rosenberg took the stand they admitted the chamber was damaged but moved the whole incident up to the month of May instead of June. (Rosenberg, R. 5905). This was obviously done on the theory that the Tribunal could be deceived into believing that very few experiments could have been conducted in May since they contend it was moved on 20 May. But the documents and Neff's testimony clearly establish that the chamber was there until July.

Moreover, it matters little whether the chamber was damaged in May or June. Rosenberg in no event took the opportunity to stop the experiments on the ground of unavailable parts, although no such opportunity was needed if he really wanted to discontinue them. He need have done nothing more complex than to have driven the chamber off or left himself.

Ruff's and Rosenberg's guilt is beyond doubt when we consider that they didn't take the opportunity to withdraw after the first death of an experimental subject in April 1942. Rosenberg admitted his presence at the death of this first subject. (Rosenberg, R. 6924). He was studying the electrocardiogram at the time of the experiments (NO-476; Rosenberg, ... 6927). He would have the Tribunal find that he was an innocent bystander who was privileged to do nothing. This was just another "33 experiment" according to Rosenberg. But Rosenberg admitted that he was working the electrocardiogram and was studying the point of light that follows the heart. When he saw the critical point had been reached, he said he spoke to Rascher, (Rosenberg, R. 6927), but this was to no avail as Rascher continued the experiment until death resulted. This testimony of assumed impotence when a man was slowly killed before his eyes is an insult to one's intelligence. Rosenberg was the senior scientist and was fully aware of the fact that a danger zone had been reached as he was thoroughly familiar with the equipment being used in these experiments. He outlined for the Tribunal the proximity of the electrocardiogram to the controls of the chamber. (Rosenberg, R. 6929), and it is inconceivable to think that Rosenberg could not have taken the necessary action to have spared this experimental sub-

ject's life if he had so desired. The inescapable fact is that these deaths were part of the plan and Romberg not only had no desire to interfere but was very much interested in the cause of death through air embolism.

Assuming that Romberg was opposed to this fatal experiment, it is impossible to understand why he did not take the appropriate action to have Rascher prosecuted for this premeditated murder. As a matter of fact, Romberg reported this death to Ruff immediately (Romberg, R. 6932) and no appropriate action was taken by Ruff either. After an alleged objection to this first fatality, Romberg participated in the autopsy of the unfortunate victim. This autopsy was one which clearly bore out the fact that air embolism was the cause of death. When asked if he participated in this autopsy, Romberg answered, "Yes, I watched one autopsy. That was my duty." (Romberg, R. 6924). Romberg testified that he saw two other deaths and that air embolism also caused these. (R. 6925-6).

Ruff and Romberg lay great stress on the point that deaths are not mentioned in the joint report of 28 July 1942 of Romberg, Ruff and Rascher. This, of course, is a very understandable omission, but it in no way proves that they are not responsible for these murders. Indeed, the joint report of 28 July 1942 is identical with Rascher's report of 11 May 1942 (NO-320) except for the specific mentioning of the deaths. For example, paragraph 3 of the Rascher report is a summary of Part III-1, pages 3 to 16, and of Part III-2, pages 18 to 19 of the joint final report. Paragraph 4 of Rascher's report contains results set out in Part III-1, pages 21 to 22, of the joint final report. Paragraph 5 of Rascher's report is identical with Part III-3, pages 19 to 21, of the joint final report. Paragraph 6 of the Rascher report where the pervitin ex-

periments are mentioned, is alluded to in the pervitin data in the joint final report on page 18. Paragraph 7 of the Rascher report, contains the conclusions incorporated in the joint final report and gives details on the gas bubble data which are referred to on pages 16 to 18 of the joint final report, but from which is omitted reference to the autopsy results of the murdered prisoners. Those various passages were compared by the witness Ivy and he concluded that they refer to the same subject matter. (Ivy, R. 9097).

Ruff attempted to explain the omission of mention of deaths in the final report on the ground that they did not occur as a result of their experiments on rescue from high altitudes (i.e. parachute descending tests), but rather in Rascher's own experiments with which they had nothing to do (i.e. prolonged stay at high altitudes). (Ruff, R. 6593). It has already been proved that the basic premise to this spurious argument is completely false, namely, that Ruff and Romberg were not interested in sojourn at high altitudes. The self-experiments of Romberg and Rascher were just such tests and they are specifically mentioned in the final report. These involved a stay of 30 to 40 minutes at altitudes between 12 and 13.5 kilometers (39,400 to 44,390 feet). But so also is the minor premise wrong. Deaths were deliberately brought about in the course of the parachute descending tests. In these tests it had been noted that the subjects suffered from spasmodic and clonic convulsions together with paralysis. This is reported in Paragraph 3 of Rascher's memorandum of 11 May 1942 on the experiments and also on pages 13 through 18 of the final report. In his memorandum, Rascher stated:

To find out whether the severe psychical and physical effects, as mentioned under No. 3, are due to the formation of embolism, the following was done: After relative recuperation from such a parachute descending test had taken place, however before regaining of consciousness, some Vr's were kept under water until they died. Then the skull and the cavities of the breast and of the abdomen had been opened under water an enormous amount of air embolism was found in the vessels of the brain, the coronary vessels, and the vessels of the liver and the intestines, etc." (NO-220, Bros. Ex. 61, R. 195; emphasis supplied).

This proves beyond any doubt that murders were committed in the parachute descending tests of Ruff, Rosenberg, and Rascher. Ruff again tried to deceive the Tribunal by testifying that it was substantially impossible for air embolism to form in parachute descending tests. (R. 6677). This is obviously disproved by the statements of Rascher quoted above and by the reference in the final report, already mentioned above, which alludes to this same problem. But the lie was also squarely nailed by the expert witness Ivy who testified that it was possible for air embolism to form in subjects who were at altitudes above 12,000 meters (39,400 feet) only three minutes, that is to say, subjects who bailed out at 15,000 meters. Bubbles may form as low as 50,000 feet. (Ivy, R. 9102). Thus, the defense that no deaths occurred during the experiments concerning rescue from high altitudes is completely spurious.

Moreover, it should be noted that while the joint final report does not describe any of the death cases, it also does not deny that deaths occurred. On page 25 of the original it says: "In conclusion, we must make it particularly clear that, in view of the extreme experimental conditions in the whole experimental series, no fatality and no lasting injury due to oxygen lack occurred." (NO-402, supra). The deaths described in Rascher's report quoted above were not due to oxygen lack but were deliberate

killings to investigate air embolism.

But even the experiments which Ruff, Romberg, and Seltz admit were planned and performed under their responsibility were highly dangerous to the life and health of the subjects. Both Ruff and Romberg agreed that 12,000 meters was the upper limit of safety and that experiments of the type they performed above that altitude were hazardous. The description of the reaction of the subjects as set forth in the final report prove that the subjects suffered severe convulsions and prolonged periods of disorientation. The expert witness Ivy pointed out that the experiments described in the final report of Ruff, Romberg, and Seltz were highly dangerous for the following reasons:

"I consider them to be dangerous because of the prolonged period of unconsciousness to which the subjects were exposed. For example, they were unconscious for periods of around twenty minutes, and they were disoriented for periods of around thirty to ninety minutes. That is a dangerous period of oxygen lack to which to expose the brain. I agree that since these workers followed the electrocardiogram demonstrates that the heart of these subjects was not momentarily affected or significantly affected by this prolonged exposure to oxygen lack. But these experiments do not show, or the results do not show that the cells of the brain were not injured. One of the higher faculties of the brain is learning, and we know that the learning process is rather sensitive to oxygen lack, and the only way to check against the possibility of damage of the learning mechanism by prolonged exposure to oxygen lack would have been to have determined the I. . . of these subjects or the ability of these subjects to learn before and after the subjects were exposed to such a prolonged period of oxygen lack." (Ivy, R. 9036).

Dr. Ivy testified that the experiments described in the final report had reached the physiological limit and that work was being done in a very dangerous and hazardous zone as far as the welfare of the experimental subjects was concerned. He said that he should be reluctant to perform such experiments even on himself and that he would prefer to depend upon that degree of accuracy which could be ob-

tained from calculations of the results of animal experiments. (Ivy, R. 9081; R. 9112; R. 9197).

Finally it should be noted that the experiments were neither necessary nor a scientific success. "Necessity of the State" has been much used by the defendants as if it were a defense. This is clearly unfounded even though necessity, military or otherwise, be assumed. It is to be supposed that each defendant thought there was some necessity to what he was doing. This is no defense. Rascher thought the same thing. It was deemed necessary to incarcerate hundreds of thousands of persons in concentration camps. It was deemed necessary to murder millions of Jews. The slave labor policy was bottomed on necessity. If that is a defense, then these trials lose all meaning. But, on the other hand if it is proved that these experiments were not necessary, not of scientific value, then it makes the guilty even more guilty. The brutal sacrifice of human life was to no avail. And such was the case here. Hippke, Chief of the Medical Service of the Luftwaffe, when writing his thanks to Himmler on 3 October 1942 said the following:

"It is true that no conclusions as to the practice of parachuting can be drawn for the time being, as a very important factor, viz, cold, has so far not yet been taken into consideration; it places an extraordinary excess burden on the entire body and its vital movements, so that the results in actual practice will very likely prove to be far more unfavorable than in the present experiments." (NO-289, Pgs. 27-72, R. 216).

When asked his opinion concerning the necessity for the typical experiment described on page 13 of the final report Ruff, R. 2089, and Rascher, the witness Ivy testified:

"I do not believe that it was necessary to do this experiment in order to determine the equipment to supply aviators who have to bail out of an airplane at high altitude." (Ivy, R. 9055).

The witness Ivy stated further that the information which

was obtained by these experiments on concentration camp inmates could have been obtained from animals as indicated by the results of Lutz and Wendt's animal work referred to in the final report. The differences in the reactions of human subjects and animals, as reported by Lutz and Wendt, were not sufficient to warrant the performance of these hazardous experiments on human beings. (Ivy, R. 9036).

B. Freezing Experiments (Indictment, Par. 6 (B))

For a full description of the criminality of the freezing experiments, reference may be made to the prosecution's Brief on the defendant Sievers.

In addition to the high altitude experiments, the defendant Meltz is charged with special responsibility for and participation in the freezing experiments. While the defendants Ruff and Rosenberg are not so charged, the mere fact that the freezing experiments were conducted following the criminal high altitude experiments in which they participated, together with the knowledge which these two defendants had of such experiments, must be considered in connection with the basic charge of their participation in criminal medical experiments. Additionally, the full measure of the guilt of Ruff, Rosenberg, and Meltz can only be appreciated by viewing the obvious inter-relation of these two experiments.

The cold water freezing experiments began on 15 August 1942 and continued until the early part of 1943. The experiments were actually performed by Holzlochner, Finko, and Rascher, all of whom were officers in the medical service of the Luftwaffe. Holzlochner and Finko collaborated with Rascher until December 1942. As Rascher said in a

memorandum on his medical training:

"By order of the Reichsfuehrer SS and General-
oberstabsarzt Prof. Dr. Hippke, I conducted
'Experiments for the Rescue of Frozen Persons'
(started on 15 August 1942) in cooperation --
for four months -- with the University Prof.
Dr. Holzlochner, Kiel, and Dr. Finko of the
Kiel University". (NO-230, Pros. Ex. 115, R.
356).

Rascher also said:

"Since May 1939 until today I have been in
military service with the Air Force".

The memorandum was dated 17 May 1943. It should, there-
fore, be borne in mind that during all of the high alti-
tude and substantially all of the freezing experiments,
Rascher was on active duty with the Luftwaffe, not the SS.
It was not until May 1943 that he went on active duty with
the Waffen SS.

Before the high altitude experiments had actually
been completed, the freezing experiments were ordered to
be performed by the defendant Woltz and his subordinate
Rascher. This can be seen from a letter of 20 May 1942
from Milch to Karl Wolff. (543-15, Pros. Ex. 62, R. 200).
A short time later, Rascher had a conference with Hippke,
the Luftwaffe Medical Inspector, and the experimental
team was enlarged to include Jarisch, Holzlochner, and
Singer. Rascher reported these orders to Himmler on 15
June 1942, and passed on Hippke's request to have the ex-
periments conducted in Dachau. (NO-283, Pros. Ex. 62, R.
309). The research assignment was issued by the Referat
for Aviation Medicine (2 II B) under Anthony, to whom the
defendant Becker-Freysong served as deputy. (NO-286, Pros.
Ex. 66, R. 248).

Woltz admitted on cross-examination that the freezing
experiments were of considerable interest to him and that
he had himself done much work in this field. (R. 7240).

Woltz maintained that he first learned of the freezing experiments on inmates at Dachau in the summer of 1942 when he was asked to carry out oxygen examinations of the blood of the experimental subjects. (R. 7426). It is quite obvious that Woltz knew of these experiments as early as May 1942 because he himself was then ordered by Milch to supervise the experiments. It also appears highly probable that Woltz's institute in Munich furnished the equipment for the experiments in Dachau. Woltz had already performed cold water experiments on large animals and thus the necessary laboratory equipment was available. (Woltz, R. 7241). Woltz admitted that Berndt had reported to him that a request was made for some of his equipment to take to Dachau, but that he refused this request. (R. 7242). He could not, however, state with certainty that some of his equipment was not in fact used at Dachau. (R. 7243).

On 26 and 27 October 1942, a conference took place in Nurnberg on "Medical Problems Arising from Distress at Sea and Weather Hardships", sponsored by the Inspector of the Medical Service of the Luftwaffe, under the chairmanship of Anthony and with the assistance of the defendant Becker-Freysong. Holzlochner and Rascher gave a report on the Dachau freezing experiments at this meeting. Woltz also gave a lecture on his freezing experiments. Among the participants were also the defendants Ruff, Ronberg, Schaefer, Becker-Freysong, and Rose. It was clear from the summary of his lecture that experiments on human beings had been conducted. (NO-401, Pres. Ex. 93, R. 309). Rascher's statement following Holzlochner's lecture also revealed that experiments had been carried out on concentration camp inmates.

This report caused something of a sensation among those present. It was made quite clear that deaths had occurred. (Lutz, R. 272). See also, the final report on the experiments which describes deaths in great detail. (NO-228, Pros. Ex. 91, R. 252).

The mere fact that the freezing experiments were carried out by officers of the Luftwaffe and with its full support proves conclusively that the attempts of Woltz, Ruff, and Rosenberg, among others, to dissociate themselves from the so-called "Rascher crimes" are nothing but perjurious efforts to avoid their clear criminal responsibility. Full knowledge that crimes had occurred during the course of the high altitude experiments was known not only to Ruff, Rosenberg, and Woltz, but also to such high medical officers of the Luftwaffe as Hippke. Yet the freezing experiments were ordered to be performed by Rascher, together with other Luftwaffe doctors, including the defendant Woltz. Rascher, far from being court-martialed by the Luftwaffe, retained his rank and continued his murderous work in cooperation with other Luftwaffe doctors. Not only was there no "dissociation" from Rascher and least of all by Ruff, Rosenberg, and Woltz, but his work was continuously supported by the Luftwaffe. On 19 February 1943 Hippke thanked Himmler "most gratefully for the great assistance that the cooperation of the SS means for us in conducting the experiments". (NO-268, Pros. Ex. 106, R. 346). In a conference with Rascher on 12 March 1943, in connection with Rascher's proposed transfer to the Waffen SS, Hippke expressly requested him to stay with the Medical Service of the Luftwaffe. He said that even though Rascher might transfer, he would still have his

full support, adding:

"I wish that even later on we continue to work together. For instance, I would like to see that you carry out together with Rosenberg the rescue from highest altitudes and that you go even higher than 21000 meters. For this case some two-stage device should be procured some way for the low-pressure car. Further I would desire that in your experiments on human beings you would combine the high altitude experiments with the cold experiments." (NO-270, Pros. Ex. 110, R. 351).

It has already been pointed out how Rosenberg, together with Rascher, made this same suggestion to Milch as early as September 1942 (supra). It is patently impossible to reach any reasoned judgment that Ruff, Rosenberg, and Woltz are not responsible for all the crimes committed during the course of the high altitude experiments. The inescapable corollary to this is also responsibility for the crimes committed during the freezing experiments. For these experiments could never have been conducted without full support of the Medical Service of the Luftwaffe, and this at a time when the manifold high altitude murders were well known to all concerned.

III. Conclusion

The Prosecution submits that the evidence proves that Ruff, Rosenberg, and Woltz were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving, and were members of an organization or group connected with medical experimentation on human subjects without their consent, in the course of which experiments murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts were committed, and that their guilt has been established under Counts I, II, and III of the Indictment.

M I L I T A R Y T R I B U N A L N O. I

CASE NO. 1

CLOSING BRIEF FOR
THE UNITED STATES OF AMERICA
AGAINST
OSKAR SCHROEDER

Nurnberg,
16 June 1947

James M. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

For:

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War Crimes



INTRODUCTION

It is alleged, in essence, under Count I of the Indictment, that the defendant Schroeder conspired and agreed with others, pursuant to a common design, to perform medical experiments on involuntary human subjects; under Counts II and III (War Crimes and Crimes Against Humanity, respectively), that he was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving medical experimentation on involuntary human subjects.

The defendant Schroeder is charged with special responsibility for and participation in the high altitude, freezing, epidemic jaundice, typhus and other vaccine experiments, and the seawater experiments. In order to simplify the issue, the Prosecution withdraws the charge that he participated in the sulfanilamide experiments. The evidence has also shown that Schroeder was connected with gas experiments performed in the Natzweiler Concentration Camp.

I. Positions of Responsibility

As Chief of the Medical Service of the Luftwaffe, the defendant Schroeder held one of the most important positions in the German medical hierarchy. He made his career in military medicine and reached the peak of his profession.

Schroeder served as a medical officer with the infantry during the First World War. In the period prior to 1931, he was attached as medical officer to a number of military units. On 1 January 1931, he was transferred to the Army Medical Inspectorate as a Consultant (referent) on hospital matters and therapeutics with the rank of Oberstabsarzt (Major).

In 1935, Schroeder became Chief of Staff to Generalarzt Hinpke in the newly established Medical Department of the Reich Ministry for Aviation. He retained this position after Hinpke was made Inspector of the Medical Service of the Luftwaffe (Inspekteur des Luftwaffen - Sanitaetswesens) in 1937. In February 1940, Schroeder was appointed Air Fleet physician for Air Fleet II (Flottenarzt der Luftflotte II) with the rank of Generalstabsarzt (Major General). On 1 January 1944, he replaced Hinpke as Chief of the Medical Service of the Luftwaffe (Chef des Sanitaetswesens der Luftwaffe). Simultaneously he was promoted to Generaloberstabsarzt (Lieutenant General), which was the highest rank obtainable in the military medical services. (NO-666, Pros. Ex. 14, R. 106; NO-449, Pros. Ex. 130, R. 471).

As Chief of the Medical Service of the Luftwaffe, all medical officers of the German Air Force were subordinated directly or indirectly, to Schroeder. His position and responsibility are clear and unequivocal. (Chart of the Medical Service of the Luftwaffe, NO-419, Pros. Ex. 13, R. 105).

It is not incumbent upon the Prosecution to show that Schroeder was familiar with all of the details of all of these experiments. It is sufficient to prove that he knew or should have known of the systematic use of involuntary human subjects for medical experiments by agencies over which he exercised a substantial degree of power and authority. He was under a duty to control his subordinates. (Application of Yamashita, 66 S. Ct. 340, 347 1946). This and more the Prosecution has proved.

II. personal Participation in Criminal Experiments.

A. Typhus Experiments in Buchenwald (Indictment, par.6 (J)).

The criminality of the typhus experiments performed in the Buchenwald Concentration Camp has been dealt with at length in the Prosecution's brief on Mrugowsky and need not be repeated here. The charge against the defendant Schroeder in this connection is based upon the participation of his subordinate Rose in these experiments after 1 January 1944, when Schroeder became Chief of the Medical Service of the Luftwaffe. Schroeder is responsible for these criminal activities of Rose. Application of Yamashita, supra.

The entry of 8 March 1944 in the Ding Diary deals with experimental series No. VIII which was suggested by the defendant Rose. Twenty inmates were vaccinated with the Ipsen vaccine from Copenhagen and subsequently infected with typhus infected blood obtained from "passage persons". Ten inmates were used as controls and were infected without previous vaccination. The entry for 13 June 1944 proves that six experimental subjects were killed as a result of these experiments, three of whom had been vaccinated and three of whom were controls.

While Rose denied that he sent the Copenhagen Ipsen vaccine to Mrugowsky or Ding for testing in Buchenwald

(R. 6224), the contrary was proved by his letter to Mrugowsky dated 2 December 1943. (NO-1136, Pros. Ex. 492, R. 6463). In this letter Rose expressly requested Mrugowsky to have the Ilsen vaccine tested in "Ding's experimental arrangement in Buchenwald". The letter was later forwarded by Mrugowsky to Ding, whose signature appears on the bottom of the letter. This document corroborates the entry in the Ding Diary and pays high tribute to the meticulous accuracy of the testimony of the prosecution witness Kogon before this Tribunal. After being confronted with this letter, Rose admitted that he signed it and that he requested Mrugowsky to test the vaccine in Buchenwald. (R. 6464-5).

This murderous experiment was carried out at a time when Schroeder was the commander of Rose and when he was fully responsible for his activities. The fact that the suggestion to have the experiments carried out was made 29 days before Schroeder assumed command over the Medical Service of the Luftwaffe in no way served to exculpate him. The arrangements for the experiments and their actual execution all occurred after Schroeder took office and he therefore bears responsibility for the murders and tortures which resulted.

B. Typhus and other Vaccine Experiments in the Natzweiler Concentration Camp (Indictment, Par.6(J)).

The typhus experiments performed by Stabsarzt Professor Eugene Haagen, Consulting Hygienist to the Air Fleet Reich, in the Schirmeck and Natzweiler Concentration Camps are described in considerable detail in the Prosecution's brief against Rose. Such material is not repeated herein and the two briefs must be considered together to obtain the full picture. The appearance of Haagen as a defense witness requires consideration of his testimony on these experiments.

Haagen testified that in the summer of 1943 the defendant Rose, as Consulting Hygienist to the Chief of the Medical Service of the Luftwaffe, prevailed upon him to resume active status as Consulting Hygienist to the Air Fleet Reich. Haagen also accepted a typhus research commission from the Luftwaffe and as a result of this commission and his position in the Luftwaffe, he carried out certain typhus experiments. (R. 9564-5).

Haagen stated that Stabsarzt Graefe was assigned to him at the Hygiene Institute of the University of Strassbourg in 1942 by the Luftwaffe and that Graefe acted as his assistant. Graefe was militarily subordinated to Luftgau Physician 7 but technically subordinated to Haagen. (R. 9562). Haagen was also militarily subordinated to Luftgau Physician 7. (R. 9563).

Haagen had developed a murine typhus (rat typhus) vaccine which contained an attenuated virulent (living) virus. (R. 9596-7). Haagen testified that he performed compatibility tests with this vaccine on 28 inmates of Schirmeck Concentration Camp, which was a sub-camp of Natzweiler. Eight inmates were vaccinated with .5 cc of this virulent vaccine, ten with .5 cc, and ten with a dead vaccine plus .5 cc of the virulent vaccine. Three additional inmates were vaccinated with a dead vaccine for purposes of comparison. He stated that no serious reactions occurred as a result of these vaccines. (R. 9603). All of these vaccinations were carried out in the month of May 1943 and no vaccinations occurred after that date, according to Haagen. (R. 9636). In the fall of 1943 Haagen transferred his activities to Natzweiler on the alleged ground that he felt a typhus epidemic was more likely there than in Schirmeck. (R. 9603). He requested through Wirt that 100 concentration camp inmates be put at his disposal in

Natzweiler for purposes of these experiments. These inmates were transferred from Auschwitz to Natzweiler during the month of November 1943, 18 of whom died on the way. Haagen found the remainder unsuitable for his purposes and requested an additional one hundred which were made available during December 1943. He testified that of these, 40 inmates were subjected to a series of two vaccinations by injection to bring about immunity and a third vaccination by scarification to test the immunity. For purposes of comparison a second group of 40 inmates designated as "controls" was given only the third scarification vaccination. The same vaccine was used for all of these alleged vaccinations and was a new vaccine containing an attenuated virulent rickettsia prowazeki virus (louse typhus). The scarification vaccine applied to both groups of subjects contained a smaller quantity of vaccine than the first two injection vaccinations given to the group immunized. In the first group the injected vaccine produced what Haagen described as the normal vaccine reaction. Substantially the same reaction occurred in the control group which received only the third scarification vaccine. The reaction was no more serious than in those who were vaccinated by injection. (R. 9615-7).

Haagen admitted that the subjects used by him both in Schirmeck and Natzweiler were of many different nationalities, among whom were gypsies and Poles. (R. 9607). He further testified that these inmates were not volunteers because, as he said, he was only carrying out protective vaccinations. (R. 9541-2).

Haagen stated that the only reason he performed these vaccinations in Schirmeck and Natzweiler was because he was asked to do so by Kramer, Camp Commander in Natzweiler. He and Kramer were disturbed about the possibility of a typhus

epidemic in the middle of 1943, although he testified that in fact no typhus cases actually occurred until March 1944. (R. 9594-5.). He went to Schirmeck only because he and Kramer feared an epidemic (R. 9600).

Haagen's testimony, as outlined above, is completely incredible on its face as well as in view of the documents which were submitted by the Prosecution and available to Haagen at the time he testified. Firstly, it is utterly ridiculous to credit his statement that he went to Schirmeck and Natzweiler only because he feared an epidemic. It is ridiculous to suppose that a concentration camp commander, on his own initiative, sought medical assistance from doctors in the towns surrounding a concentration camp. The WVHA, to which all concentration camps, were subordinated, had a very elaborate medical system and it is unthinkable that a local camp commander would ask aid from an outsider. Secondly, it is ridiculous to suppose that Haagen, out of the kindness of his heart and the fear of an epidemic spreading beyond the confines of the camp, would use his precious typhus vaccine to protect the miserable wretches who were imprisoned in the concentration camps. Haagen himself stated that he had very little typhus vaccine. (R.9613). It has been repeatedly testified to during the course of this trial that typhus vaccines were critically short in Germany during the war and that there were not even sufficient quantities to vaccinate doctors, nurses, and other personnel exposed to special danger. That this vaccine would be used to protect concentration camp inmates is unthinkable. Thirdly, it is ridiculous to suppose that any scientist could have possibly thought that vaccinating 28 inmates in Schirmeck and 80 in Natzweiler could have had any possible effect on the likelihood of a typhus epidemic.

That Haagen perjured himself with respect to what he was really doing in Natzweiler during the course of his typhus experiments is clearly evident from his own letter of 27 June 1944 to Hirt. In a letter of 9 May 1944 to Hirt, Haagen requested that an additional 200 persons be furnished to him for his experiments. (NO-123, Pros. Ex. 303, R.1396). Supplementary to this request, he stated in his letter of 27 June 1944 that, in the subsequent inoculations with virulent typhus which are to be made for the purpose of testing the protective vaccine, one must count on sickness particularly in the control group which has not received the protective vaccine. These after-inoculations are desirable in order to establish unequivocally the effectiveness of the protective vaccines. This time 150 persons will be used for the protective vaccine and 50 for the control inoculations." (NO-127, Pros. Ex. 306, R. 1401).

It should be noted specifically that in the letter quoted above, Haagen pointed out to Hirt that sickness was to be expected in the control group which had not received the protective vaccine. Haagen testified that this additional group of 200 inmates requested by him was merely for the purpose of vaccination, just as he had done in December 1943 and January 1944 on the 80 experimental subjects. He added that in May he had enough vaccine for 200 more persons and he was merely trying to increase the protection in the camp. (R. 9613). The falsity of Haagen's testimony is clearly apparent from the statement in the letter that sickness was expected in the control group. He had previously testified that there was no reason whatever to expect any more serious reaction to the scarification vaccination in the control group than to the injected vaccine in the immunized group. (R. 9613). Indeed, there was every reason to expect that the vaccine injected in the immunized group

would bring about a more serious reaction since more vaccine was given by injection than by scarification. Haagen applied a much larger quantity of the vaccine in the first two injections of the immunized group than in the scarification vaccination of both the immunized and the control group. The same vaccine was used throughout. (R. 9710). The method of vaccination, whether by injection or scarification, has no effect on reaction to the vaccine. Haagen specifically testified that "if we vaccinate by scarification we can expect that the effect of the vaccine will be the same as if we inject subcutaneously or intra-muscularly." (R. 9714).

Haagen was quite unable to reconcile his statement in his letter to H,rt of 27 June 1944 that "one must count on sickness, particularly in the control group" with his testimony that there was no difference in the reaction to the vaccine as between the immunized and control groups. Indeed, the only possible interpretation of his letter is that instead of vaccinating the immunized and control groups by scarification, he, in fact, infected them with typhus. Haagen knew that the unprotected control subjects would become ill with typhus. Haagen also had no explanation for the letter of Kahnt, Chief of Staff to Schroeder, of 29 August 1944, in which he was asked "whether it may be assumed that the typhus epidemic prevailing at Natzweiler at present is connected with the vaccine research". (NO-131, Pros. Ex. 309, R.1404). He testified that he had completed his vaccinations of the 80 experimental subjects during January 1944 and that all of his serological examinations were finished no later than February 1944 and that the experimental subjects were released from confinement. Haagen submitted a report to the Luftwaffe no later than May or June 1944 to the effect that the vaccine had been a success. (R. 9627-9). There was no reason whatever for Kahnt and Rose to address such an inquiry

ERRATA SHEET
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On Page 9, line 4 should read as follows:

It is quite impossible that vaccine tests which caused
no typhus in the vaccinnated persons could cause typhus
in other persons, as suggested by Rose during his
examination.

to Haagen when he had long since completed his experiments, according to his testimony, and submitted a success report to the Luftwaffe at least two months before the inquiry. It is quite impossible that vaccine tests which caused no typhus in other persons, as suggested by Rose during his examination. Moreover, it should be noted that Kahnt's letter clearly indicated an understanding on his part that Haagen's vaccine research in Netzeiler was contemporaneous with the epidemic. This, Haagen testified, he could not understand. (R. 9880). Haagen also had considerable difficulty explaining why, in his letter of 29 September 1944, in reply to Kahnt's inquiry, he didn't state that he had conducted no vaccinations or experiments in Netzeiler since January 1944 and that his vaccinations had caused no illness in the subjects, let alone caused a typhus epidemic. Haagen simply stated in his letter that, "I hereby inform you that no connection existed between the cases of typhus in Netzeiler and the examinations dealing with typhus vaccine that is to be tested." (NO-132, Pres. Ex. 310, A. 1406, emphasis added). Indeed, Haagen himself stated in his reply that the vaccine was still under test, contrary to his testimony before this Tribunal.

Haagen would have the Tribunal believe that he had no typhus virus strain which was pathogenic to human beings, that he could not have brought on a serious case of typhus in man even had he tried to do so. (R. 9608, 9612). In the very same breath he testified that there was considerable danger of infection in working about the laboratory and that he gave his assistants a "risk bonus". (R. 9608).

Haagen testified that he performed no vaccinations after January 1944. He reiterated this time and again during the course of his examination. (R. 9614-5). When asked his reasons for not vaccinating during the typhus epidemic in

Natzweiler in the spring and summer of 1944, which offered an opportunity to test the anti-infectious effect of his vaccine under natural conditions; he lamely answered that he had to make so many official military trips that he had no time. (R. 9614). Although he had sufficient vaccine to justify his asking for 200 additional experimental victims in 1944, his only effort in the typhus epidemic, according to his testimony, was to send them decontamination equipment. (R. 9614). It is not readily apparent, to say the least of it, just why some other doctor or an assistant of Haagen could not have performed the vaccinations which Haagen would have the Tribunal believe he was so anxious to have done for the protection of the camp.

All of the above contradictions and falsifications appear upon the face of Haagen's testimony as well as from the documents which he had so carefully studied before his appearance. The documents submitted to him during cross-examination reveal his testimony to have been perjurious from start to finish. Haagen repeatedly testified that he carried out no vaccinations in Schirmeck after May 1943. He stated that in Schirmeck he only performed a single vaccination and not the series of vaccinations to test "anti-infectious immunity" because at that time his "knowledge hadn't progressed so far". (R. 9536). In connection with the Ipsen vaccine, about which Rose had corresponded with him, he especially denied that he ever proposed to Rose that experiments be carried out with it. Haagen's letter to Rose of 4 October 1943 squarely contradicts him on both of these significant points. (NO-2874, Pres. Ex. 520, R. 9651). He stated in his letter that:

"I already reported to you the numeral results of experiments on human beings. The serum titer is considerably higher, also after a single vaccination, in comparison with three times vaccinations with de-activated vaccines. I regret that

it was not possible so far to perform infectious experiments on the vaccinated persons; I requested the Ahnenerbe of the SS to provide suitable persons for vaccination, but did not receive an answer as yet. We are now performing a further vaccination of human beings; I shall report later about the result. I guess we will then have reached the point to be able to recommend our new vaccine to be introduced, for the time being without infectious experiments". (emphasis added).

It should be noted first that this letter proves that Haagen carried out vaccination in Schirmeck after May 1943, contrary to his testimony. He stated that "we are now performing further vaccinations of human beings." Moreover, his contention that "subsequent infection" as used in later letters by him only meant his process of multiple vaccines, is completely destroyed. Haagen himself testified that he did not carry out multiple vaccinations in Schirmeck because his knowledge had not progressed that far. It is, therefore, obvious that his use of the phrase "infectious experiments" in the letter above, meant artificial infection with typhus. The fact is, however, that Haagen perjured himself on both scores. He had carried out multiple vaccinations in Schirmeck with his new vaccine. This is clearly implicit in the letter quoted above because he states that he was even then performing further vaccinations. This is incontrovertibly proved by the experimental notes kept by Miss Crodel which will be referred to below. Since he was already performing such experiments, it is thus apparent that use of the phrase "infectious experiments" in this letter referred to actual artificial infection with typhus because he was asking the SS, through Hirt and the Ahnenerbe, to supply him with a special group of inmates for the infection experiments.

In this same letter of 4 October 1943, Haagen discusses Rose's report concerning the Ipsen vaccine from Copenhagen.

He concluded his letter by stating: "If we can get experimental subjects from the SS for test vaccinations, it would be an opportunity to test the liver vaccine as well on its anti-infectious effect. I would then suggest that our material will be used parallel with the Ipsen tests". Thus, Haagen testified falsely when he said that he did not propose experiments with Ipsen vaccine. In his letter he very specifically proposed performing anti-infectious experiments with the Ipsen vaccine as well as his own vaccine. This again proves that the use of the phrase "infectious experiments" could not possibly mean multiple vaccinations with living typhus vaccine. The Ipsen vaccine was a dead vaccine; it contained no attenuated virulent virus. Three times vaccinations with a dead vaccine could not be designated an "infectious experiment" even by Haagen. (R. 9655). Moreover the defense's own proof shows that the Ipsen vaccine had already been tested for tolerability and found comparable with other vaccines used by the Wehrmacht. This is clear from Rose's letter to the Behring-Works and Haagen, among others, dated 29 September 1943. (Rose Doc. 22, Rose Ex. 21, R. 6216). It is quite clear that the only type of experiment left open for the Ipsen vaccine was precisely the kind that Haagen proposed, namely, after-infection of the vaccinated and control subjects with typhus.

Haagen was further impeached by the notes kept on his typhus experiments by his assistant, Miss Crodel. (NO-3852, Pros. Ex. 521, R. 9660). Haagen definitely identified these notes as having been written by Miss Crodel. (R. 9691). Miss Crodel had been an assistant of Haagen's for many years and he found her most reliable. (R. 9701). He conceded that Miss Crodel was very careful in her work. (R. 9697). On page three of the notebook appears a series of entries dating from 30 April 1943 to 27 January 1944 concerning a series of

experiments in Schirmeck. The entry for 19 May 1943 shows that two out of four mice injected with his vaccine died. The entry for 26 May reads:

"(4 weeks) 3-6, 0.5 per person and 6 mice 0.5 i.p., 5 dead, after 10, 14, 14 days, the rest after 4 weeks."

This entry proves that on that date human beings were inoculated with Haagen's vaccine. To say the least of this entry, five mice who were similarly vaccinated died as a result. The phrase "the rest after 4 weeks" can obviously refer also to deaths among experimental persons since it is quite impossible that this phrase could be used to refer to the one remaining mouse. The entry for 6 July indicates that on that date Haagen and his assistants appeared in Schirmeck for the purpose of withdrawing blood from ten persons, who had been previously vaccinated, for a Weil-Felix reaction test. The entry gives the serum titer value of eight of the experimental subjects. The entry is ended with the laconic note, "the other two were not here anymore". This entry is conclusive corroboration of the testimony of the witness, George Hirtz, who stated that Haagen had tested his vaccine at Schirmeck in the summer of 1943. Approximately 20 Polish inmates were used in these experiments and, following the inoculations, two of the experimental subjects died. Hirtz testified that he himself sewed up the bodies of these inmates in paper bags and delivered them for cremation. The other experimental subjects had reactions such as high fevers, shock and impairment of speech. (R. 1293-99). His testimony is further corroborated by Haagen himself, who stated that two groups of ten inmates were inoculated by him in Schirmeck. The entry in the Grodel notes obviously has reference to one of these groups of ten and upon the arrival of Haagen and his assistants in the camp for the purpose of

withdrawing blood, it was found that two of the subjects had died.

The entry for 4 October 1943 on page three of the Grodel notes reads:

"(six months) inoculated 20 persons in Schirmeck, Tube ~~2~~ 2 cc distilled water, 0.5 per person".

This proves not only that Haagen testified falsely when he stated that he carried out no typhus vaccinations in Schirmeck after May 1943 but also that multiple vaccinations with his vaccine were performed. This entry bears the same date as Haagen's letter to Rose, referred to above, which also stated that he was performing further vaccinations. The last entry on page three is dated on the original as 27 January 1943 and reads:

"(9 months) mixed with the same amount (as 21 day) distilled water tube, 20 persons 1.1 cc each".

The date 1943 is obviously a mistake on the part of Miss Grodel in making the entry. This is proved by the fact that the period of time indicated in parentheses in the notes refers to the period of time the vaccine had been stored. Haagen so admitted. (R. 9711). Thus the reference "(9 months)" means that the vaccine being used in that series of experiments had been stored for nine months since 30 April 1943, the date of the first entry on page three and the time the vaccine was first prepared. That 1943 in the original entry should really be 1944 also is apparent from page four of the notes wherein the last entry is for 27 January 1944. It is a common mistake for one to use the date of the old year during the first month of the new year.

Haagen inoculated another group of ten persons in Schirmeck on 10 October 1943 and 20 more on 27 January 1944 as seen from the entries on page four of the Grodel notes. Again on page five of the original, the entry for 14 October

1943 proves that ten persons were inoculated for the third time with 1.0 cc of Haagen's new vaccine. That this entry refers to the virulent murine vaccine and not to the Gildemeister dead vaccine can be seen from the preceding entry which speaks of four control persons being inoculated three times with Gildemeister vaccine. This fact is further apparent by comparing the quantity of the injections plus the amount of distilled water used per tube of Haagen's new vaccine as set forth in other entries.

The entry for 25 May 1944 on page 7 of the Credel notes states that 30 persons were inoculated in Metzweiler. "The inoculation took place during the incubation period (a transport containing also sick people) 13 became sick in the period from 29 May 50 9 June, of these two died". Haagen had repeatedly testified that he performed no vaccinations after January 1944 in Metzweiler. Not only did he perform experiments after January 1944, but as proved by the entry quoted above, subjects died during the course of such experiments. By his own testimony Haagen proves that these entries deal with an experiment during which the subjects were artificially infected with typhus. Although the entry euphemistically states that the vaccinations "took place during the incubation period", Haagen testified, as had been repeatedly suggested by the prosecution, that it is impossible to know when persons are in the incubation period. The incubation period is that time between the infection and the first manifestations of the disease. Accordingly, it is impossible to know that a vaccination takes place during the incubation period unless the person has been artificially infected so that the date of infection is known. (Haagen, R. 9701-2).

It is significant to note also that the chart on page 14 of Miss Credel's notes uses the word "nachimpfung",

meaning after-vaccination or re-inoculation, in connection with multiple vaccination experiments on two mice (both of whom incidentally died), rather than the word "nachinfektion", meaning after-infection or subsequent infection, which was repeatedly used by Haagen in his letters concerning experiments on human beings.

Haagen testified that the defendant Schroeder visited him on 25 May 1944, the very day on which he was carrying out experiments in Natzweiler. (Haagen, R. 9632). While it is of course entirely possible that Schroeder may have visited Haagen on 24 or 26 May, rather than on 25, the fact is quite clear that in any event Haagen's very important experiments on typhus were discussed with Schroeder, contrary to the testimony of both men. The same is true with respect to the visit of the defendant Becker-Freysong which took place shortly after that of Schroeder (Haagen, R. 9569), and of Ross who visited Haagen both in 1943 and 1944. (Haagen, R. 9570). Haagen's statement that Becker-Freysong came all the way from Berlin to discuss with him the procurement of rabbits and mice is as incredible as the rest of Haagen's testimony.

The defendant Schroeder testified that Haagen's research assignment was not secret and attempted to argue on that basis that nothing criminal could have happened. (R. 3654). Without pausing to point out the stupidity of such an argument, suffice it to say that Schroeder's testimony was proved to be false by a list of research assignments issued by Schroeder's office in 1944. Haagen's typhus work was classified secret. (NO-934, Pros. Ex. 458, R. 3655).

The testimony of the witness Nales corroborates the proof outlined herein above and in the brief against Rose that Haagen performed experiments to test the immunity of his vaccine by artificially infecting the subjects with typhus. Nales, a Dutch citizen, was arrested by the Gestapo in 1940 for allegedly participating in a resistance movement. Although he was tried and acquitted, he was committed to Buchenwald Concentration Camp in April 1941. In March 1942 he was transferred to Natzweiler and in November 1942 he became a nurse in the Ahnenerbe experimental station there. (R. 10409-10). He stated that in the latter part of 1943, 100 Gypsies were sent to Natzweiler from Auschwitz for Haagen's typhus experiments. Haagen found them physically unsuitable and thereafter an additional 90 Gypsies were shipped in. These were divided into two groups and confined in separate rooms in the Ahnenerbe experimental station. One group was vaccinated against typhus. Approximately 14 days later, both groups were artificially infected with typhus. As a result, about 30 of the subjects died. Nales nursed the victims himself and saw the bodies. He talked to the subjects frequently and knows they did not volunteer, as indeed Haagen himself admitted on the stand. The Gypsies were of various nationalities including Poles, Czechs, Hungarians, and Germans. (R. 10419-23).

Haagen's influenza experiments on inmates of Schirmeck may be briefly noted. He received an influenza vaccine research assignment from the Medical Service of the Luftwaffe in January 1942, which was extended in 1943 and 1944. (Haagen, R. 9570). He vaccinated 20 women in the Schirmeck Concentration Camp in 1943 with

his virulent influenza vaccine. (R. 9571). He testified that this was not an experiment but a protective measure. He maintained he was not interested in testing the vaccine, but merely feared an influenza epidemic as well as a typhus epidemic. He vaccinated those inmates in the most exposed places. (R. 9572-3). Although Haagen had only enough vaccine for 250 to 300 persons, he showed this remarkable concern for the inmates of Schirmeck. (R. 9571). Since his work in Schirmeck had nothing to do with his research assignment from the Luftwaffe, he testified that he did not charge such expenses to the Luftwaffe. (R. 9574). His account of expenditures to the Luftwaffe on influenza research for 1943-4 contradicted him. (NO-3450, Pros. Ex. 519, R. 9587). This document also proves he made a trip to Schirmeck on 12 February 1944, contrary to his testimony.

Haagen's long continued activity in Schirmeck and Natzweiler can be clearly seen from his account book on research tasks on yellow fever and typhus. His work in Schirmeck began as early as 20 April 1943. He was placing telephone calls to Schirmeck late in August 1944, over a year after Haagen's alleged "last vaccination" there. These accounts were charged to the Medical Service of the Luftwaffe. (NO-3837, Pros. Ex. 542, R. 10365). They were in such detail as to reveal on their face his activity in the concentration camps. (See also No-3450, Pros. Ex. 519, R. 9587).

Haagen admitted that by infection experiments one could mean only one of three things (1) subsequent artificial infection with typhus (2) vaccinations of large groups of people and then studying efficacy dur-

ing a natural epidemic and (3) Weil-Felix reaction tests carried out before and after a subsequent vaccination. (R. 9601). He admitted that the Prosecution's interpretation of "infection experiments" and "subsequent infection" was equally consistent with his own. (R. 9611). He admitted that the word "nachimpfung" (subsequent vaccination) could have been used as well as "nachinfektion" (subsequent infection). (R. 9611).

There are no refined questions of documentary interpretation presented to the Tribunal. The simple issue is whether Haagen committed crimes during the course of his experiments. There is no dispute that these were "experiments". Haagen repeatedly used the word in his own letters. There is no dispute that the inmates used as subjects were non-volunteers, among whom were nationals of German occupied countries. Haagen admitted as much. The documents and the testimony prove that a substantial number of subjects were killed during the course of these experiments. (See also the Prosecution's brief against the defendant Rose). Against this overwhelming proof stands the testimony of Haagen and Rose, both of whom perjured themselves repeatedly on the stand. Indeed, their own testimony is the best circumstantial proof as to the criminality of the experiments. One does not gratuitously testify falsely. Those who fear the light of truth commit perjury. These men regard their oaths as lightly as they did the lives of their helpless victims.

The guilt of Rose and Haagen is the measure of the guilt of Schroeder. As a medical officer of the Luftwaffe, Haagen was subject to his orders. (Schroeder, R. 3636). The office of Schroeder issued the research

assignments pursuant to which these experiments were carried out. It provided the funds with which to carry them out. It received reports on the experiments and knew they were performed on concentration camp inmates. (supra; Eyer, R. 1758). Schroeder was himself in Strassbourg at the very time the experiments were going on. His guilt is clear and unequivocal.

C. Gas Experiments (Indictment, Par. 6 (D))

The Medical Service of the Luftwaffe, which was subordinated to the defendant Schroeder, also participated in the criminal gas experiments by Hirt and Haagen in the Natzweiler Concentration Camp.

Hirt's gas experiments in Natzweiler began in November 1942. (NO-098, Pros. Ex. 263, R. 1028). They continued through the summer of 1944. (Holl, R. 1058). During this period approximately 220 inmates of Russian, Polish, Czech, and German nationality were experimented on with gas, of whom about 50 died. They did not volunteer. Their bodies were horribly burned by the gas and the victims were frequently blinded. (Holl, R. 1052; 1057; Nales, R. 10412-18, 10432).

Both Holl and Nales testified that a doctor of the Luftwaffe worked with Hirt on these experiments. (Holl, R. 1059, 1061; Nales, R. 10448). This was Oberarzt Wimmer, a Staff Physician of the Luftwaffe. He was put at the disposal of Hirt for these "war important" gas experiments by Luftgau VII. (NO-195, Pros. Ex. 266, R. 1033). Haagen testified that Wimmer was one of Hirt's assistants. (R. 9581-2). Wimmer worked with Hirt on the gas experiments from the summer of 1942 until 1944. (NO-196, Pros. Ex. 261, R. 1027; 492-PS, Pros. Ex. 267, R. 1034). Wimmer was co-

author with Hirt of a report in 1944 on the treatment of Lost gas wounds. This report speaks of heavy, medium, and light gas wounds. (NO-099, Pros. Ex. 268, R. 1035). Schroeder is responsible for the crimes of Wimmer in the course of his research work. Application of Yamashita, supra.

The proof has shown that Haagen also performed gas experiments. Although Haagen admitted that he knew and had contacts with Hirt and Bickenbach, who were professors with Haagen at Strassbourg, he denied any knowledge of their gas experiments. (R. 9584-5). He would likewise have the Tribunal believe that he knew nothing of the skeleton collection, the bodies for which were in the basement of the Anatomical Institute five minutes from Haagen's office. (R. 9586). The affiant Wagner, who was a draftsman working for Hirt, stated that:

"During the time that I was employed by Prof. Hirt, meaning until the end of the war, I have seen documents and photostats from which it is certain that Hirt, Haagen, and Dickerhof have done some experiments on human beings. These photostats give the results of experiments made with poison gas and other similar substances.

* * * * *

"For Prof. Haagen, I had to make a chart of about 2 x 1 meters, on which were listed the various combat gases with their chemical formulas, and which gave indications on the dangers that men could encounter. I have deduced that experiments had been made on human beings." (NO-881, Pros. Ex. 280, R. 1074).

The affiant Schuh, who worked in the Medical Research Institute under Haagen, stated that: "From Moyer I have learned, too, that Haagen together with Prof. Hirt made some trials of combat gas (Lost) in Natz-

weiler on Jewish prisoners." (NO-885, Pros. Ex. 314, R. 1413). Haagen admitted that both Schuh and Meyer worked under him in the Medical Research Institute. (R. 9583). Meyer was killed in an air raid in the fall of 1944.

The statements of Wagner and Schuh are corroborated by the testimony of Broers and Nales. Broers, a Dutch physician, testified that he was arrested for resistance activities and, although twice tried and acquitted, he was sent to Natzweiler as a Nacht und Nebel (Night and Fog) prisoner in July 1942. (R. 10388-90). In May or June of 1944 he assisted another inmate named Boeggarts in performing autopsies, in the presence of Hirt, on several Gypsies killed in poison gas experiments. During the autopsies, Haagen and a blond girl (undoubtedly Miss Grodel) came in to see what was being done. (R. 10392-5).

Nales testified that about May 1944 Haagen conducted gas experiments on approximately 8 survivors of the typhus experiments, several of whom died as a result. They were not volunteers and were of Czech, Polish, and Hungarian nationality. (R. 10423-6). This is corroborated by the excerpt from the monthly report of the Natzweiler camp doctor for June 1944, which reads as follows:

"IV Miscellaneous

(1) Experimental Station: during the period covered by this report, experiments on 16 gypsies were carried out at the experimental station. Three deaths have been registered." (NO-807, Pros. Ex. 185, R. 732, see supplemental translation).

While this excerpt does not specify the type of experiment, it can only be the gas or the typhus, as they were the only experiments being performed in Natzweiler. Haagen admitted

that excerpts from other reports dated 25 November 1943, 24 December 1943, and 1 February 1944 probably referred to his typhus experiments. (R. 9640-1, 9647).

D. Epidemic Jaundice Experiments (Indictment, Par. 6 (H))

In June 1944, a conference of experts was called for the purpose of coordinating jaundice research. This conference took place at Breslau and was presided over by Schreiber. (Gutzeit, R. 2752). Handloser, Gutzeit, and Haagen were all present at this conference. (Gutzeit, R. 2717). Haagen admitted during cross-examination that experiments on human beings were discussed. That criminal experiments on concentration camp inmates were discussed is clear from the fact that Schreiber in January 1945 personally requested Mrugowsky to make available inmates for hepatitis experiments by Dr. Dresel. (NO-1303, Pros. Ex. 467, R. 5400). Schreiber assigned groups of physicians to work together on jaundice problems. Dohmen, Gutzeit and Haagen were assigned to one of these groups. (Gutzeit, R. 2717). On 12 June 1944, Haagen himself requested Schreiber to assign Dohmen to work with him. Generalarzt Schreiber at that time was commander of the Military Medical Academy under Handloser. (NO-299, Pros. Ex. 190, R. 739). Schreiber complied with this request. (NO-300, Pros. Ex. 191, R. 740).

On 24 June 1944, Gutzeit wrote to Haagen that he was also requesting Schreiber to assign Dohmen to Haagen. He went on to state that he was making preparation for experiments on human beings and he wanted Haagen to supply him with his virus material. (NO-124,

Pros. Ex. 193, R. 743). Haagen replied to Gutzeit's letter on June 27, 1944 stating that he was glad that Dohmen would be assigned to him as of 15 July. He further stated that he was working with Kalk, Buechner and Zuchschwert, all officers of the Luftwaffe, on jaundice problems and that he had arranged with Kalk to conduct human experiments with his material. (NO-125, Pros. Ex. 194, R. 744). On the same date Haagen wrote to his collaborator Kalk, who was a consultant to defendant Schroeder and a specialist on hepatitis (Schroeder, R. 3632), stating as follows: "In the enclosure I send you a copy of a letter from Gutzeit and my reply. We must proceed as soon as possible with the experiments on human beings. These experiments, of course should be carried out at Strassbourg or in its vicinity. Could you in your official position take the necessary steps to obtain the required experimental subjects. I don't know what sort of subjects Gutzeit has at his disposal, whether they are soldiers or other people". (NO-126, Pros. Ex. 195, R. 745).

The remark about "other people" is an obvious reference to concentration camp inmates, upon whom Haagen had long since been experimenting with virulent typhus virus, while the reference to "Strassbourg or in its vicinity", indicates the Concentration Camp Natzweiler. The witness Olga Eyer, secretary to Haagen, testified that prisoners were requested for the epidemic jaundice experiments. (R. 1759). Haagen would have the Tribunal believe that he had reference to Freiburg and Heidelberg which are 60 and 100 kilometers, respectively, from Strassbourg, while Natzweiler was only a few kilometers away. (R. 9579).

Herr Kalk and his Chief, the defendant Schroeder, were well advised on how to procure concentration camp inmates for medical experiments because only a few weeks before Schroeder himself had requested inmates from Himmler for the sea water experiments. (NO-185, Pros. Ex. 134, R. 483; see infra).

E. Sea Water Experiments (Indictment, Par. 6 (G))

The seawater experiments conducted on inmates of the Dachau Concentration Camp was a criminal undertaking from its very inception in May 1944. After two and one-half years of murderous medical experimentation on concentration camp inmates by doctors of the Luftwaffe including the high altitude, freezing, gas, and typhus experiments at Buchenwald and Natzweiler, the defendant Schroeder with certain knowledge that some of the subjects would probably die, personally ordered the carrying out of the sea water experiments. His subordinates, Becker-Freyseng, Beiglboeck, and Schaefer participated in the planning and execution of them.

On 19 May 1944 a conference was held at the German Air Ministry (RLM) which was attended by Christensen, Schickler, Becker-Freyseng, and Schaefer, among others. This conference was concerned with the problem of the potability of sea water. Two methods of making sea water drinkable were then available to the Medical Service of the Luftwaffe. One, the so-called Schaefer method, had been chemically tested and apparently produced potable sea water. It had the disadvantage, however, of requiring substantial amounts of silver which was available only in limited quantities. The second method, so-called Berkatit, was a substance

which changed the taste of sea water but did not remove the salt. It had the advantage of simplicity of manufacture and use.

At the conference on 19 May the defendant Becker-Freyseng reported on certain clinical experiments which had been conducted by von Sirany to test Berkatit. He came to the conclusion that the experiments had not been conducted under realistic enough conditions of sea distress. He reported that the Chief of the Medical Service of the Luftwaffe was

"convinced that, if the Berka method is used, damage to health had to be expected not later than 6 days after taking Berkatit, which damage will result in permanent injuries to health and - according to the opinion of Unterarzt Dr. Schaefer - will finally result in death after not later than 12 days. External symptoms are to be expected such as dehydration, diarrhea, convulsions, hallucinations, and finally death" (NO-117, Pros. Ex. 133, R. 479).

As a result of this conference it was agreed to conduct new experiments. They were to include a series of experiments for a maximum of six days during which one group was to be given sea water processed with Berkatit, another group ordinary drinking water, another group no drinking water at all, and the final group such water as was available in the emergency sea distress kits then used. A second series of experiments was decided upon and the report stated:

"Persons nourished with sea water and Berkatit, and as diet also the emergency sea rations.

Duration of experiments: 12 days

Since in the opinion of the Chief of the Medical Service permanent injuries to health, that is, the death of the experimental subjects has to be expected, as experimental subjects such persons should be used as will be put at the disposal by Reichsfuehrer SS". (NO-177, supra).

Thus, with full knowledge that the use of Berkatit for periods of six days would result in permanent injuries to the experimental subjects and that death would result no later than the 12th day, plans were made to conduct experiments of 6 and 12 days duration. It should be noted that the conference report does not state that the duration was a maximum of 12 days as in the case of the first series of experiment. The duration was to be 12 days in any event. Since it was known that volunteers could not be expected under such conditions, the conference determined to use inmates of concentration camps which would be put at their disposal by the SS. At a second meeting on 20 May 1944, the report states that "it was decided that Dachau was to be the place where the experiments were (to be) conducted". (NO-177, supra). Copies of the report on the conferences were sent, among others, to the Medical Experimentation and Instruction Division of the Air Force, Jueterbog, to which the defendant Schaefer and Holzlohner, who conducted the freezing experiments with Rascher, were attached; the DVL, Berlin-Adlershof, to which the defendants Ruff and Romberg were attached; to the Medical Inspectorate of the Luftwaffe (L.In.14); and the Reichsfuehrer SS. The report was signed by Christensen of the Technical Office of the RLM.

On 7 June 1944 the defendant Schroeder wrote to Himmler through Grawitz asking for concentration camp inmates to be used as subjects in the sea water experiments. This letter reads in part as follows:

"Earlier already you made it possible for the Luftwaffe to settle urgent medical matters through experiments on human beings. Today again I stand before a decision which, after numerous experiments on animals as well as human experiments on voluntary experimental subjects, demands a final solution: The Luftwaffe has simultaneously developed two methods for

making sea water potable. The one method, developed by a Medical Officer, removes the salt from the sea water and transforms it into real drinking water; the second method, suggested by an engineer, leaves the salt content unchanged, and only removes the unpleasant taste from the sea water. The latter method, in contrast to the first, required no critical raw material. (Engpassrohstoffe). From the medical point of view this method must be viewed critically, as the administration of concentrated salt solutions can produce severe symptoms of poisoning.

"As the experiments on human beings could thus far only be carried out for a period of four days, and as practical demands require a remedy for those who are in distress at sea up to 12 days, appropriate experiments are necessary."

"Required are 40 healthy test subjects, who must be available for 4 whole weeks. As it is known from previous experiments, that necessary laboratories exist in the concentration camp Dachau, this camp would be very suitable". (NO- 185, Pros. Ex. 134, R. 483, emphasis added).

Schroeder concluded his letter by stating that the experiments would be directed by the defendant Beiglboeck.

This letter proves that the defendant Schroeder had knowledge of the previous criminal experiments conducted by doctors of the Luftwaffe on concentration camp inmates. Twice he mentions previous experiments which were made possible through the furnishing of inmates by the SS. The letter further proves that the experimental subjects were not to be volunteers. Schroeder expressly states in the second sentence of the first paragraph that numerous experiments had already been conducted on "voluntary experimental subjects" but that the problem now demands final resolution, since such experiments had been carried out for a period of only four days while practical demands require a remedy for those in distress at sea up to 12

days. The defense has contested the translation of the second sentence in the first paragraph and has offered an alternative translation which would have Schroeder asking the Reichsfuehrer for voluntary experimental subjects. The translation experts of the Office of Chief of Counsel for War Crimes have certified to the translation quoted above and it is relied upon by the Prosecution. That this translation is correct is entirely obvious from the conference report of 19 and 20 May 1944 which expressly stated that since deaths were anticipated in these experiments, only such persons would be used as were made available by Himmler. It is ridiculous to speak of volunteers in experiments in which death is anticipated as a foregone conclusion. Moreover, it should be remembered that the Luftwaffe had long since been experimenting on involuntary subjects in concentration camps. The sea water experiments were only one in a series of criminal experiments initiated by the Luftwaffe. Schroeder turned to the SS because he knew of these previous experiments.

That these experiments were carried out on involuntary subjects is also proved by Grawitz' letter to Himmler on 28 June 1944 (NO-179, Pros. Ex. 135, R. 485). In this letter Grawitz reports the opinions of Gebhardt, Gluecks, and Nebe, as well as his own, on the proposed experiments. Gluecks stated that he had no "objections whatsoever to the experiments requested by the Chief of the Medical Service of the Luftwaffe to be conducted at the experimental station Rascher in the Concentration Camp Dachau. If possible, Jews or prisoners held in quarantine are to be used". It is impossible to imagine a Jew being asked to volunteer

for anything in the Third Reich when they were being slaughtered by the millions in the concentration camps. Nebe stated that "I proposed taking for this purpose the asocial gypsy half-breeds. There are people among them, who, although healthy, are out of the question as regards labor commitment. Regarding these gypsies, I shall shortly make a special proposal to the Reichsfuehrer, but I think it right to select from among these people the necessary number of test subjects. Should the Reichsfuehrer agree to this, I shall list by name the persons to be used". It is a little difficult to imagine how Nebe, Chief of the Reich Criminal Police, could "list by name" gypsy volunteers for these experiments. Grawitz raised the objection to the use of gypsies on the ground that they were "of somewhat different racial composition" and he therefore wanted experimental subjects racially comparable to European peoples. Himmler decided that gypsies plus three others for control should be used. (NO-163, Pros. Ex. 136, R. 487).

Schroeder testified that he tried to arrange for carrying out the sea water experiments at the Luftwaffe Hospital in Brunswick. He remembered very specifically, according to his testimony, that he had contacted the commander of that hospital on 1 June 1944. He stated that he also attempted to obtain students as experimental subjects from the Luftwaffe Medical Academy in the latter part of May 1944. Both of these attempts to obtain volunteers allegedly failed because of the lack of clinical facilities and the calling up of students to active service. Schroeder testified that he went to the SS only after he had exhausted all other possibilities. He would have the Tribunal believe

that there was no place to find 40 volunteers and the necessary clinical facilities, although von Sirany had conducted such experiments in Vienna on Wehrmacht soldiers, but of course for only four days. (R. 3657, 9).

In connection with this testimony of Schroeder's, it should be noted that the records of the conference on 19 and 20 May 1944 were immediately sent to the SS. The decision to use concentration camp inmates did not await any efforts to find volunteers but was made at the conference of 19 May. It was known that because of the very nature of the experiments which were planned, that volunteers could not be obtained. Contrariwise, it is impossible to believe that the commanding officer of the whole of the Medical Service of the Luftwaffe was unable to obtain 40 volunteers for the experiments which he claims were so innocuous. There were no regulations which forbade experiments on members of the Wehrmacht. (Schroeder, R. 3660). The defense witness Haagen, in connection with his proposed epidemic jaundice experiments on human beings, as set forth in his letter of 27 June 1944 to Kalk, who was attached to the staff of Schroeder, insisted at great length that he planned to use volunteers from the student companies of the Wehrmacht at Strassbourg, Freiburg, or Heidelberg. (R. 9578). He was positive that student volunteers would have been made available. He stated that he could have used them during their vacations. (Haagen, R. 9579). Kalk was also sure that this could have been done. Haagen emphasized repeatedly that volunteers were available. (R. 9580). Clinical facilities would have been easily obtained in reserve hospitals. (Haagen, R. 9581).

Schroeder testified that he didn't know that Berkatit would cause death in not more than 12 days. (R. 3666). He couldn't remember whether Schaefer had told him that taking Berkatit for 12 days would cause death. In a pre-trial interrogation, he specifically denied that. (R. 3668). He testified that while both Becker-Froyseng and Schaefer were at the Nurnberg meeting in October 1942 at which the report on the freezing experiments at Dachau was given, neither of them reported to him about it, when he proposed going to Dachau to conduct the sea water experiments. (R. 3669). Schroeder denied that he had ever seen the report on the meeting of 19 and 20 May 1944 on the sea water experiments. (R. 3662). Although a copy of this report was sent to Himmler, he would have the Tribunal believe that it was a sheer coincidence that he turned to Himmler for experimental subjects without having seen the report. (R. 3669). He testified that he told Grawitz in a meeting with him that he wanted the experiments carried out on dishonorably discharged soldiers. (R. 3670). Grawitz allegedly said that he would respect this wish. Schroeder stated that he made it clear to Grawitz that the subjects had to be volunteers, with a little food as a reward. (R. 3672). He further testified that he told Grawitz that the experiments had to be controlled by the Luftwaffe. During a pre-trial interrogation, he swore that he knew nothing about the sea water experiments, that the SS took it out of his hands and he had no influence. (R. 3610-1). Schroeder had no idea, according to his testimony, that foreigners were incarcerated in concentration camps. He said that he knew that gypsies were used as experimental

subjects only after the report by Beiglboeck in Berlin in October 1944. (R. 3676). He testified that he instructed Beiglboeck that Berkatit was to be used only until the subjects said they couldn't tolerate any more. (R. 3677). He admitted having heard the report by Beiglboeck on the experiments, together with Becker-Freysang and Schaefer, among others, but that he didn't hear the complete report as he had to leave the meeting early. (R. 3679-80).

The charts kept by the defendant Beiglboeck on each of the experimental subjects, which the defense was finally forced into submitting in evidence, after attempting to use them through the defense "expert" Vollhardt without offering the documents themselves, give some of the details as to the experiments, although under the circumstances their reliability is doubtful. (Beiglboeck Ex. 34, R. 9381). Certain alterations in these records which will be discussed at a later point, indicate that they are not entitled to great weight. The experiments began in August 1944 and continued until the middle of September. Forty-four experimental subjects were used. Subjects 1 to 6 were deprived of all food and water for periods from $5\frac{1}{2}$ to $7\frac{1}{2}$ days. The duration of the experiments given herein is based upon the starting date of the morning of 22 August, as contended by the defense, although there is some evidence indicating that the starting date was 21 August. If the experiment was interrupted in the forenoon, no additional day or part thereof is counted. If it was interrupted between noon and 1700 hours, one-half day is added, while if it was interrupted after 1700 hours, a full day is

added. Subjects 7 through 10 were given 1000 cc. of Schaefer water for 12, 13, and 12 days respectively, and hungered for 7, 8, and 9 days, respectively. Subject No. 9 was not used for reasons of health. This was the defense witness Mettbach. Subjects 11 through 18 were given 500 cc. of sea water plus the emergency sea ration which contained approximately a total of 2400 calories. These experiments lasted from 5 to 10 days. They hungered up to $6\frac{1}{2}$ days. Several of these subjects, for example, 11, 13, 17, and 18 were subjected to two separate experiments of 8 and 6 days, 6 and 5 days, $7\frac{1}{2}$ and 5 days, and 10 and 4 days, respectively. Subjects 19 through 25 were given 500 cc. of Berkatit plus the emergency sea ration. The duration of the experiments lasted from 5 to $9\frac{1}{2}$ days with periods of hunger up to $6\frac{1}{2}$ days. Subjects 19 and 20 underwent two separate experiments of 7 and 5 days each. Subjects 26 through 30 were given 1000 cc. of Berkatit plus the emergency sea ration. Duration of the experiments was from 5 to $9\frac{1}{2}$ days with periods of hunger up to $6\frac{1}{2}$ days. Subject 29 underwent two experiments of 8 and 5 days. Subjects 31 and 32 were given 1000 cc. of sea water for 8 and 6 days respectively. Subject 31 was subjected to an additional experiment of 5 days. Subject 33 was given 500 cc. of Berkatit for 6 days; Subject 34, 1000 cc. of Schaefer for 12 days; Subjects 35 through 37, 39, 41, and 42 were given 500 cc. of sea water for periods ranging from 4 to 6 days. Subjects 38, 40, and 43 were given 1000 cc. of sea water for 6, 5, and 6 days; and Subject 44 was given Schaefer water for 12 days.

The clinical charts on the experiments also supply us with the ages of the experimental subjects.

Subjects 17, 19, 20, 35, 37, 40, and 43 were all under the age of 21. Subject 40 was 16 years old; subjects 17, 19, and 37 were 17 years old; subject 35 was 18 years old; subject 43 was 19 years old; and subject 20 was 20 years old. Needless to say, no effort was made to obtain the consent of the parents or guardians of these minors..

The defendant Beiglboeck testified that he reported to Berlin at the end of June 1944 where he was told by Becker-Freysong that he was to carry out the sea water experiments in Dachau. He also saw Schroeder previously in connection with the experiments. He said he attempted to withdraw because he had a horror of working in a concentration camp. He did not refuse to perform the experiments because he was afraid of being called to account for failure to obey orders. (R. 8828-9). Becker-Freysong told him that the purpose of the experiments was, first, to find out if Berkatit was useful; second, to test the Schaefer method; and third, to see whether it would be better to go completely without sea water or to drink small quantities of it. (R. 8832). He said he was told by the officials in Dachau that the gypsies who were to be used in the experiments were held as "asocial" persons. Beiglboeck apparently considers himself as an expert on asocials. He testified that it was his understanding that a whole family could be classified asocial, although this "does not exclude the possibility that, in this family, there can be a large number of persons who did not commit any crime". (R. 8848).

He testified that he called the experimental subjects together and told them what the experiment was

about and asked them if they wanted to participate. (R. 8849). He did not tell them how long the experiment would last. He did not tell them that they could withdraw at any time. He testified that he had to require that they thirst for a certain period. The decision as to their being relieved from the experiment lay with him. (Beiglboeck, R. 8850). During the course of the experiments he testified that the subjects revolted on one occasion because they did not get the food they had been promised. (R. 8863). They did not get food for several days because of a delay in delivery. (R. 8868). The subjects were locked in a room during the experiments. Beiglboeck testified that:

"They should have been locked in a lot better than they were because then they would have had no opportunity at all to get fresh water on the side." (R. 8864).

He stated that the danger zone would be reached in about seven days, drinking 500 cc. of sea water while, in cases of 1000 cc. of sea water, it would be 4½ days. (R. 8876-7). Compare the much longer duration of the experiments as set out above.

It was readily apparent to the Prosecution after an inspection of the clinical charts kept during the course of the experiments that a number of alterations had been made in them. These records were in the exclusive possession of defense counsel prior to the testimony of Vollhardt, whose expert opinion was based in part upon such records. In a large number of instances the names of the experimental subjects have been erased from the charts, obviously in an effort to make it impossible to locate such persons for the purpose of

giving testimony. An examination of the charts further reveals that the final weights of the experimental subjects were written on the charts in a different shade of ink than the remainder of the records. In some cases these weights were written over the original pencil notations, for example on chart C-2 the final weight of 62 kilograms in pencil was written over in ink to read 64½ kilograms. Beiglboeck admitted that the red arrows purporting to indicate the start of the experiments, usually appearing under the date August 22, were made by him in 1945, long after the experiment had been completed. (R. 8909). In charts 1 to 32 a red mark under the date August 21 appears, which would indicate that the experiments very probably began on that date. Certain notes in German shorthand appear on the back of chart C-23. Beiglboeck admitted that he wrote these notes himself. (R. 8970). Beiglboeck testified that:

"We (Beiglboeck and his defense counsel) were in agreement at all times that the charts and curves should be submitted in the same way as we received them here". (R. 8921).

He repeatedly stated that he did not make any erasures on the charts in Nurnberg. (R. 8922, 8973, 8975-6). When the proof left him no alternative, Beiglboeck finally admitted having made changes and erasures in the notes on the back of chart C-23 in Nurnberg. (R. 8978). These notes give a clinical report on one of the experimental subjects who was critically ill. The following is a restoration of the original stenographic notes insofar as they could be translated:

"The thirst assumes forms difficult to endure. The patient lies there quite motionless with half-closed eyes. He

takes no notice of his surroundings;
He asks for water only when he awakes
from his semiconscious condition.
(half a line erased).

"The appearance is very bad and doomed.
The general condition gives cause for
alarm.

"Respiration flatter, labored, moderately
frequent.

"Respirations 25 per minute.

"The eyes are deeply haloed, the turgor
of the skin greatly reduced.

"Skin dry, tongue completely dry, whitish
coating in the middle fairly loose.

"The mucous membranes of the mouth and
the lips dry, latter covered with crusts.
Lungs show slight very dry bronchitis
lower border VI-XII, sharpened vesicular
respiration.

"Heartbeats very low hardly audible.
Filling of the pulse weaker. Increased
thickness of walls of blood vessels.
Frequency 72, liver 2 $\frac{1}{2}$ -3 fingers below ster-
nal margin, rather soft, moderately sensi-
tive to pressure, spleen on percussion
slightly enlarged.

"Musculature hypotonic. Joints over-
extendable. Calves slightly sensitive
to pressure. Indications of transverse
welt formation, marked longitudinal welt
formation. Romberg plus plus. Reflexes
plus plus. Abdominal reflexes plus plus.
Babinski negative. Eife phenomenon.
Oppenheim negative. Rossolimo negative.
Tonus of the bulb of the eye bad. Bulbus
reflex positive. (Interruption".

Beiglboeck had substituted the word "somnolent" for
the word "semiconscious" in the last line of the first
paragraph. In this same paragraph half a line was com-
pletely erased and could not be translated. Beiglboeck
purported not to remember what it said, an obvious false-
hood since it was erased out of fear of the truth. In
the last sentence of the second paragraph, Beiglboeck
altered the notes to read "The general condition gives
no cause for alarm". In the first line of the eighth
paragraph, Beiglboeck substituted the word "poorly"

for "hardly". The notation "Romberg plus plus" means that the subject has an "uncertain" ability to stand. (Beiglboeck, R. 8982). He said that these notes refer to subject number 30 rather than subject 23. (R. 8984).

Beiglboeck testified that he made no further changes, erasures, or alterations in Nurnberg. (R. 8992). That Beiglboeck's testimony as a whole is completely unreliable is evidenced by the fact that he also made erasures in the notes on the back of chart A-29. These notes, insofar as they can be translated, read as follows:

"The thirst again becomes very severe. Patient lies down on his back and rolls about. Also gets ----- a typical stereotyped organic rigid seizure with severe tetanic symptoms such as from his -----, symptoms -----
In view of the fact that in the last two days he has been drinking a great deal of water -----quarter plus half liter has been, he is being taken out of the experiment.

"3/9 Again taken into the experiment.

"5/9 Again complains about very severe thirst.

"6 Feeling of thirst very severe, tongue dry and coated. Fetid smell from the mouth. Skin dry and hot, liver significantly enlarged, reflexes very lively, blood vessels show thickening of walls, musculature over excitable.

"7/9 Psychic state has changed. Somnolence. Tongue dry, musculature feels stiffened. Considerable weakness of musculature with atoxic manifestation. Romberg positive. Blood vessels still -----, pulse poorly filled, marked bradycardia, respiration accelerated. General condition (the next word erased and not legible), liver greatly enlarged."

In the case of subject 25, Beiglboeck testified that this man was x-rayed several times and apparently had acute bronchitis. His fever went up to 39.8 Centigrade. (R. 8998). He complained of a stomach ailment

before the experiment began. (R. 9000). He was still sick when Beiglboeck left Dachau on 15 September. (R. 9002). Subject 39 was a man 49 years old. He was given 500 cc. of Berkatit for a period of four days, namely, from 1 September to 4 September, when the experiment was interrupted at 1930 hours. Beiglboeck used the truth with characteristic economy when he testified that the man was under the experiment only three days. (R. 9010). He admitted having performed numerous lumbar and liver punctures on the subjects. (R. 8933).

A number of experimental subjects were able to gain access to fresh water in spite of the efforts of Beiglboeck to prevent them. Beiglboeck and his defense counsel assumed the anomalous position that this somehow mitigates his guilt. It is difficult to understand how this self help on the part of the subjects, which undoubtedly saved the lives of the majority of them, could be raised as a mitigating factor when Beiglboeck did everything in his power to prevent that. As a matter of fact he did not even know that the experimental subjects in the first group, that is to say from 1 to 32, had been able to get to fresh water. He testified that:

"I should like to say that in the second group, when I knew their devices from my experience with the first group, I knew what to do and broke off the experiments. If I had wanted to continue the experiments, I would have done it in the second group too. This I did in the first group only because at first I did not realize the significance of the failure to lose weight". (R. 9022).

Thus Beiglboeck says, in effect, that although he did not know that the experimental subjects gained access to fresh water and although he continued the experiments

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Thus Beiglboeck says, in effect, that although he did not know that the experimental subjects gained access to fresh water and although he continued the experiments

far beyond what he himself knew to be the danger point,
nonetheless he is to be excused because some of the
experimental subjects drank fresh water secretly in
spite of his efforts to prevent it.

The expert witness, Dr. Ivy, testified for the Prosecution concerning sea water experiments. He, himself, participated in an experiment of three days during which he consumed 2,400 cc. of sea water with a caloric intake of 108 per day in the form of candy. He suffered marked dehydration and was at the point of developing hallucinations. A second volunteer in these experiments took 2000 cc. in a little over one day and developed vomiting and diarrhea to such an extent that the experiment had to be stopped. (R. 9038-9). Compare the amounts of sea water taken by Beiglboeck's subjects. For scientific data concerning the effect of sea water on the human body, see transcript pages 9039-41. Dr. Ivy pointed out certain basic inconsistencies in the testimony of the defense expert witness, Vollhardt. (R. 9041-43). Dr. Ivy testified that it was entirely unnecessary to perform these experiments for the purpose of establishing the potability of sea water processed by the Berka method. This could have been determined chemically in a matter of one-half hour. (R. 9043-4). He stated that if 1000 cc. of sea water or Berkatit were taken per day, it would cause death in less than 12 days. Death would occur between the 8th and the 14th day if 500 cc. were consumed per day under ideal conditions. (R. 9045). The statement in the report of the conferences on 19 and 20 May 1944 that if Berka water was used, damage to the health was to be expected not later than six days and would lead

to death not later than 12 days, is essentially correct. (R. 9044). This document shows that the planned duration of the experiments was 12 days. Dr. Ivy testified that it would be unnecessary to conduct experiments for more than three to four days to show that Berkatit was just as dehydrating as sea water. (R. 9046). He stated that these experiments make sense only if they were trying to determine the survival time of human beings on 500 cc. and 1000 cc, of sea water per day. It is clear that the experimental plan anticipated deaths. (R. 9046-7).

Dr. Ivy testified that on the basis of his studies of the charts kept during the course of the experiments, that there was an insufficient observation period after the experiments to determine whether there were any delayed damaging effects to the experimental subjects. (R. 9049). The results of the experiments are not scientifically reliable. (R. 9051).

Dr. Ivy pointed out that the chart of subject 3 proved that he was too weak to stand and have his blood pressure taken on several occasions. (R. 9052). This was one of the subjects in the fasting and thirsting group. He was giving an injection of coronine on 29 August and strychnine on 30 and 31 August. Both of these drugs are heart stimulants and the clinical picture indicates that this subject was ill or markedly disabled by the experiments. (R. 9053). Eight to fourteen days is the range of survival time of strong men under ideal conditions for thirsting and fasting. (R. 9053).

As a result of his study of the clinical records, Dr. Ivy testified that subjects 3, 14, 36, 37, 39, 31, 23 (or 30), 25, 28, and 29 were ill during the experi-

ments. Subjects 3, 23 (or 30), and 25 were especially ill and there is a possibility that they were permanently injured or died as a result of the experiments. (R. 9058-9).

The subject to whom the notes on the back of chart C-23 applied was very sick and in a coma. (Ivy R. 9061). The changes made in the stenographic notes by the defendant Beiglboeck make the subject appear to be in a better condition than he actually was. (Ivy, R. 9062-3). The bulbous reflex referred to in these notes means the pressing of the eyeball to determine the degree of coma. "Tonus of ball of eyes is bad" indicates the blood pressure was low and the circulation was quite poor. This is a bad prognostic sign and might indicate impending death. (R. 9065). These notes indicate that the subject was in a dangerous condition and require immediate remedial therapy. The follow-up observation for subject 23 was four days, while on subject 30, five days. This was entirely insufficient. This subject could have died if not properly cared for. (Ivy, R. 9065-6).

Dr. Ivy testified that of the 44 subjects, 13 were too weak to stand on one or more occasions, had fever, required cardiac stimulants, or were unconscious, namely, subjects 3, 4, 14, 21, 23, 25, 28, 29, 32, 36, 37, 39, and 40. (R. 9067-8). The statement of the affiant Bauer to the effect that he observed symptoms of heart weakness in the experimental subjects as a result of certain electro-cardiograms he took was corroborated by Ivy. (Ivy, R. 9069).

In Dr. Ivy's opinion, an experimental subject who agrees to undergo an experiment is no longer a volunteer

if, during the course of the experiment, he is forced to continue after having expressed a desire to be relieved. (R. 9076-7).

The testimony of the defense expert, Vollhardt is entirely unreliable. Although Vollhardt had nothing whatever to do with these experiments in Dachau, he repeatedly testified in a highly partial manner concerning matters about which he could not possibly have had any knowledge. For example, he insisted that the subjects in Dachau were volunteers. He testified that Beiglboeck eliminated three subjects before the experiments began because of their physical condition and that three other persons immediately volunteered. (R. 8457-8). Even Beiglboeck made no such contention. He said that he considered it "quite out of the question that the experimental subjects felt it necessary to drink water out of mops, because there were air raid buckets and if they felt they needed a drink, they could drink out of them". (R. 8467). It is passing strange that Vollhardt could have such information when he was never in Dachau. He believed it quite impossible that any of the experimental subjects had cramps although subject 29 is proved to have had cramps and organic seizures by the notes quoted above. Although Vollhardt admitted that the clinical data showed that a number of the experimental subjects had secretly obtained fresh water and although Beiglboeck admitted that some of the subjects threw their urine away (R. 8865), Vollhardt was quite sure that the experimental subjects were all volunteers.

Vollhardt made no study of the clinical notes himself but turned them over to a 25 year old assistant

to digest for him. (R. 8432). He admitted that he relied on descriptions of the experiments made by Becker-Freyseng and Beiglboeck since the trial began. (R. 8438). Vollhardt had had no previous experience with sea water problems nor had his assistant. (R. 8451). Vollhardt testified that he conducted a volunteer experiment on five of his doctor assistants after he had been approached by defense counsel. His subjects drank 500 cc. of simulated sea water per day and received 1600 calories per day. (R. 8440-2). Four of the subjects continued the experiment for five days and one for six days. The latter subject drank an extra 500 cc. on the last day. The purpose of these experiments was to ascertain how much a person suffers undergoing a sea water experiment. (R. 8443). Vollhardt's subjects continued their work about the clinic although they ate and slept in the same room. He does not know whether they went to the local cinema or left the clinic for other purposes during the course of the experiments. (R. 8445). Four of the subjects quit on the fifth day because of an engagement with a young lady. (R. 8450). He testified that his subjects had no severe thirst on the first two days, it became unpleasant on the third, reduced thirst on the fourth, and very strong thirst on the fifth day; the subject who went six days reported that it made very little difference. All continued their work during the experiment. (R. 8453). It is obvious that this experiment in no way compared to those conducted in Dachau. While some of the experimental subjects in Dachau were too weak on many occasions to have their blood pressure taken, Vollhardt's subjects were able to continue their work.

While Vollhardt's subjects were trained doctors who participated in the experiment because of interest, who were permitted to withdraw from the experiment at any time, who were permitted to control their own activities during the experiment, none of these important factors were present in the Dachau experiments. (R. 8479). The wretched gypsies were not permitted to withdraw when they felt like it. They did not know how long the experiments were to last, they had no freedom of activity, they had no interest in the experiment. Vollhardt's regard for these gypsies is apparent from his statement that "...people like that will of course find a way" to cheat. (R. 8468).

That Vollhardt knew nothing of the experiments he purported to testify about is apparent from his testimony regarding their duration. For example, he stated that in the Berkatit group of 500 cc., the experiments were discontinued after six days. (R. 8462). The clinical charts which Vollhardt had in his possession, and upon which his testimony purported to be based, show that the duration of the experiments in this group ran as high as 9½ days, and in all but two cases exceeded six days. He testified that the group on sea water was also discontinued after six days while the clinical charts show some of them to have run as long as ten days. In the fasting and thirsting group he testified that they were discontinued after four to five days, while the chart shows that they lasted from 5½ to 7½ days. (R. 8462-3). No, Vollhardt's testimony would indeed have been an unreliable substitute for the charts.

The testimony of the prosecution witnesses proves that the sea water experiments resulted in murder and

tortures. The Austrian witness, Vorlicek, who was tried for "preparation of high treason" in 1939 and sentenced to four years in a penitentiary, was transferred to Dachau in March 1944 and acted as an assistant nurse in the experimental station during the course of the sea water experiments. (R. 9383-5). One of the inmate guards who fell asleep was transferred to a penal company. (R. 9386). At least one of the subjects suffered a violent attack of cramps. (R. 9386). On one occasion Vorlicek spilt some fresh water on the floor and forgot the rag which he used to mop it up. The experimental subjects seized the dirty rag and sucked the water out of it. Beiglboeck threatened to put him in the experiments if it ever happened again. (R. 9387). The experimental subjects were not volunteers. Vorlicek talked to some of the Czech subjects who told him they had been asked in another camp to volunteer for a good outside assignment and only when they got to Dachau did they find out that they were to undergo the experiments. (R. 9388, 9392). He testified that the subjects were of Czech, Polish, Hungarian, Austrian, and German nationalities. (R. 9388). Some of the subjects were quite ill and he was under the impression that they would not live much longer. About three months after the experiments, he met Franz, one of the subjects, and he told him that one of the victims of the experiments had already died. (R. 9390).

The witness Laubinger, who was subject number 7, testified that he was arrested by the Gestapo in March 1943 because he was a gypsy. He was sent to Auschwitz in the spring of 1943 without having been tried for any

crime. (R. 10199). He was later transferred to Buchenwald for a few weeks and while there he, together with other inmates, was asked to volunteer for a cleaning up work detail in Dachau. The inmates were under the impression that conditions were better in Dachau so they agreed to go. Upon their arrival at Dachau they were given a physical examination and x-rayed and then taken to the experimental station. (R. 10200). Beiglboeck told them that they were to participate in the sea water experiment and that this was the first they knew of it. (R. 10201). Laubinger identified Beiglboeck in the dock. (R. 10202). He told Beiglboeck that he had had two stomach operations but Beiglboeck did not permit him to withdraw. Beiglboeck did not ask whether the subjects wished to volunteer and they did not volunteer. (R. 10203). Laubinger, who was in the Schaefer group, was given Schaefer water for 12 days and fasted for at least nine days. (see chart 7). He got so weak he could hardly stand up. The experimental subjects received special food for only one day after the experiment. Beiglboeck had promised them extra rations and an easy work detail but these promises were not kept. (R. 10205). One of the subjects tried to persuade the others to refuse to drink the sea water. Beiglboeck threatened to have him hanged for sabotage. The subject later vomitted after drinking sea water whereupon Beiglboeck had the water administered through a stomach tube. (R. 10207). Another subject was tied to his bed and adhesive tape was plastered over his mouth, because he had obtained some fresh water and bread. Most of the subjects were Czech, Polish, and Russian nationalities with approximately eight Germans.

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(R. 10208). A number of subjects suffered attacks of delirium and two were transferred to the hospital and Laubinger did not see them again. (R. 10209).

The witness Hollenreiner corroborated the testimony of Laubinger in all important points. He testified that the experimental subjects did not volunteer (R. 10509) and that the majority of them were non-German nationals. (R. 10513). Hollenreiner testified further that Beiglboeck showed no concern for the experimental subjects, but, on the contrary, threatened to shoot them when they became excited. (It hardly seems appropriate to wear a gun when experimenting on volunteers). He had no pity for them when they became delirious from thirst and hunger. (R. 10510). The witness Hollenreiner unfortunately assaulted Beiglboeck in open court. This impulsive act of the witness, however, speaks more forceably than volumes of testimony as to the inhuman treatment of the experimental subjects and the suffering which was inflicted on them as a result of these experiments. We may rest assured that Hollenreiner was no volunteer. When explaining his behaviour to the Tribunal, Hollenreiner characterized Beiglboeck a "murderer". (R. 10233-4).

The witness Tschofenig was committed to Dachau in November 1940 where he remained until April 1945. He was a political prisoner. (R. 9331). He is presently a member of the Corinthian Land Diet in Austria. (R. 9332). From the summer of 1942 until the end he was in charge of the x-ray station in Dachau. (R. 9334). He examined the transport of gypsies in the summer of 1944 before the experiments began and excluded a number of them as being unfit. (R. 9334-5). He saw Beiglboeck

several times in the camp and in the X-ray station. (R. 9335). During the experiments a number of those who got sick were brought to the X-ray station for examination. Their physical condition had deteriorated considerably as a result of the experiments. He heard that one of the subjects had a maniac attack. (R. 9336). At the conclusion of the experiments, three of the subjects were brought to the station for internal diseases. One was on a stretcher and unable to walk. All of them were x-rayed by Tschofenig (R. 9338). It was customary to send the results of the x-ray examinations to the hospital ward where the inmates were kept. Tschofenig received an official order from the station for internal diseases that it was not necessary to report on the stretcher case as he had died two days after his transfer. The station physician reported that the death resulted from the sea water experiments. Tschofenig examined the death records himself. (R. 9339).

Even Dr. Steinbauer, defense counsel for Beiglboeck, has apparently convinced himself that these experiments involved torture. He said, in explaining his conduct in withholding part of a document the Tribunal had ordered produced, that: "I do not want to say anything about the experimental subjects, who suffered terribly". (R. 9378).

F. High Altitude and Freezing Experiments (Indictment, Par. 6 (A) and (B)).

Schroeder testified that he heard about the Ruff, Romberg, Rascher high altitude experiments only after the war ended. (R. 3612). He said he never talked to

Ruff, Romberg, or Becker-Freyseng about those experiments. (R. 3613). He testified that he learned of the freezing experiments in February or March 1943 when he received a copy of the report on the Cold Congress in Nurnberg in October 1942 at which Holzloehner and Rascher spoke on the experiments. (R. 3615). He would have the Tribunal believe that he never got a copy of the exhaustive final report on the freezing experiments by Holzloehner, Finke, and Rascher. (R. 3615). It is a little difficult just who could have been more likely to receive this report with its important conclusion if not the few Air Fleet Physicians, of which Schroeder was one at that time. Schroeder himself listed the warm bath method of treating freezing as the fourth most important military medical discovery in Germany during the war. (R. 3616). But his denial is understandable since the final report gives an exhaustive description of the experiments, including deaths. (NO-428, Pros. Ex. 91, R. 252).

Schroeder testified that he did not know that Holzloehner, Finke, and Rascher collaborated on these experiments. (R. 3625). But the report on the Cold Congress, which he admitted having received and read, expressly says so. (NO-401, Pros. Ex. 93, R. 309). Although he testified that he didn't know experiments on human beings were involved, the same report makes that perfectly obvious even to a layman. (R. 3626-9). The clinical detail reported on makes it absolutely impossible that any physician would think for a moment that these were not experiments. It's a little difficult to see how rectal temperature could be minutely checked on an aviator in sea distress. Rascher's lec-

ture was summarized, in part, as follows:

"Supplementing the statements of Holzloehner there is a report on observations according to which cooling in the region of the neck only, even if it lasts for several hours, causes merely a slow sinking (up to 1° C.) of the body temperature without changing the blood-sugar level or the heart function. Checking of the rectal temperature was carried out by taking the temperature in the stomach and showed complete agreement." (NO-401, supra).

Nothing could be clearer than that these were experiments on human beings and Schroeder knew it when he read it.

He admitted that Becker-Freysong told him in May 1944 about the Holzloehner experiments in Dachau. (R. 3622). In the fall of 1944, Schroeder talked to Holzloehner about the freezing experiments and gained the impression that he was very depressed about the whole affair. His suicide later confirmed this belief. (Schroeder, R. 3621, 3624).

That Schroeder knew all about Rascher and the previous Luftwaffe experiments in Dachau is proved beyond controversy by his own letter of 7 June 1944 to Himmler concerning the sea water experiments. He said in part as follows:

"Earlier already you have made it possible for the Luftwaffe to settle urgent medical matters through experiments on human beings As it is known from previous experiments, that necessary laboratories exist in the Concentration Camp Dachau, this camp would be very suitable". (NO-185, Pros. Ex. 134, R. 463, emphasis supplied).

The only previous experiments performed by the Luftwaffe in Dachau were the high altitude and freezing experiments and Rascher participated in both. In commenting on Schroeder's request, Gluecks of the WVHA said

that he had no "objections whatsoever to the experiments requested by the Chief of the Medical Service of the Luftwaffe to be conducted at the experimental station Rascher in the Concentration Camp Dachau." (NO-179, Pros. Ex. 135, R. 485). Is it to be held that Gluecks knew more about the Luftwaffe experiments by Rascher than the Chief of the Medical Service of the Luftwaffe? His knowledge of those criminal experiments could not be more clearly proved.

This knowledge of the previous crimes together with Schroeder's position as commander of the Luftwaffe Medical Service required that he be found guilty as an accessory after the fact to the high altitude and freezing murders. An accessory after the fact is one who, knowing a crime had been committed, harbors the criminal, or assists him to escape arrest, or trial, or execution of sentence. An accessory after the fact is subject to the same penalty as a principal. (Wharton's Criminal Law (1932), Vol. 1, Section 281). Schroeder was himself the law of the Medical Service of the Luftwaffe. He knew that crimes had been committed by Ruff, Romberg, Woltz, Holzloehner, and Finke. He not only condoned their crimes and took no action against them, but with that knowledge continued to support similar crimes by Rose and Haagen and personally ordered the criminal sea water experiments.

III. CONCLUSION

Of all the medical services of the Third Reich that of the Luftwaffe was perhaps the most active in criminal medical experiments, the SS not excepted. As Chief of the Medical Service of the Luftwaffe, Schroeder

bears primary responsibility for their commission.

Application of Yamashita, supra.

Rose, as Consulting Hygienist to Schroeder, instigated a series of typhus experiments in Buchenwald which was performed between March and June 1944 to test vaccines furnished by him. Six experimental subjects were killed as a result. The criminal typhus experiments of Haagen, a subordinate of Schroeder in the Schirmeck and Natzweiler Concentration Camps were supported by Schroeder, Rose, and Becker-Freyseng. The Medical Service of the Luftwaffe was fully informed about the criminal character of these experiments. Many subjects were killed as a result. Schroeder's own Chief of Staff, Kahnt, wrote to Haagen inquiring if his experiments had caused the typhus epidemic in Natzweiler. Schroeder himself visited Haagen in Strassbourg during the course of the experiments. As late as August 1944, Haagen was still receiving funds from the Luftwaffe to continue his criminal research. Haagen also performed other criminal experiments, including those with gas as a result of which several subjects were killed. Wimmer, a medical officer of the Luftwaffe, collaborated with Hirt in his gas experiments in Natzweiler. Haagen, together with other medical officers of the Luftwaffe, planned to perform jaundice experiments on inmates.

Schroeder personally ordered the execution of the sea water experiments which caused the death of at least one subject and untold torture to many others. He was an accessory after the fact to the high altitude and freezing crimes.

There is nothing to be said in mitigation for

Schroeder. His was the knowledge and power to prevent these crimes. But his guilt is not simply failure to control. His office issued the research assignments pursuant to which the crimes were committed. His office supplied the money and facilities for their execution. His subordinates performed the experiments. Reports were received on those experiments. He personally ordered one series of highly dangerous experiments on concentration camp inmates. His guilt is much greater than that of his obedient subordinates.

M I L I T A R Y T R I B U N A L N O. I

CASE NO. 1

CLOSING BRIEF FOR
THE UNITED STATES OF AMERICA
AGAINST
WOLFRAM SIEVERS

J. M. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

For:

Nurnberg,
16 June 1947.

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War Crimes



INTRODUCTION

It is charged by the Prosecution under Count I of the Indictment that Sievers conspired and agreed with others, pursuant to a common design, to perform medical experiments on involuntary human beings; and under Counts II and III (War Crimes and Crimes against Humanity, respectively), that he was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with, plans and enterprises involving medical experimentation on involuntary human subjects, and the murder of 112 Jews selected for the purpose of completing a skeleton collection; and under Count IV, that he held a membership in the SS organization in violation of Paragraph 1 (d), Article II, Control Council Law No. 10.

I. POSITIONS OF RESPONSIBILITY

The defendant Sievers joined the NSDAP in 1929 and remained a member of the Party until the beginning of 1931. He renewed his membership in the Nazi Party in 1933. (Sievers, R. 5561). He joined the SS at the end of 1935 on the suggestion of Himmler. In this organization, he attained the rank of a Standartenfuhrer (Colonel). (Sievers, R. 5746-7).

From 1 July 1935 until the war ended Sievers was a member of Himmler's personal staff and Reich Business Manager of the Ahnenorbe Society.

Pres. Ex. 31, NO-670, Affidavit of
Sievers.

The Ahnenorbe was an SS organization

founded by Himmler on 1 July 1935. (Tr. 5662). According to a statute of 1 January 1939, the purpose of the Ahnenerbe was to support scientific research concerning the culture and heritage of the Nordic race. The Board of Directors was composed of Himmler, as president, Dr. Weust, the Curator, and Sievers, as the Business Manager. Sievers was responsible for the business organization and administration and the budget of the Ahnenerbe. The place of business was Berlin. (Sievers Ex. 7).

Sievers supported and participated in the criminal medical experiments which are the subject of the Indictment primarily through the Institute of Military Scientific Research of the Ahnenerbe. Sievers testified that this Institute was attached to Ahnenerbe against his wishes on order of Himmler. But a document from his own hand proves that he perjured himself in that regard, as indeed his whole testimony was false. In a memorandum dated 26 June 1942 concerning Hirt's mustard gas research, which was sent to Himmler, he said:

"To collect these and similar research in the Ahnenerbe (combatting of insects and rats, Rascher's experiments) which certainly will occur, and thus facilitate the organizational and technical execution, I suggest:

1) Foundation of an Institute for Military Scientific Research within the Ahnenerbe.

2) Appointment of SS-Hauptsturmfuehrer Prof. Dr. Hirt as an active member, and his appointment to Chief of Department H (Hirt) of the Institute for Military Scientific Research.

Rascher's work could well be here in-

cluded, he then could be appointed as Chief of Department R (Rascher). Necessary supplies for such an institute which in the first line will serve the needs of the troops would be easier to explain and more reasonable as if applied for under the name of the "Ahnenerbe" alone." (NO-2210, Pros. Ex. 483, R. 5850).

As a result of this suggestion, on 7 July 1942 Himmler wrote to Sievers, in the latter's capacity as Reich Manager of the Ahnenerbe, directing the following with respect to the Ahnenerbe:

1. to establish an Institute for Military Scientific Research,
2. to support in every possible way the research carried out by SS Hauptsturmfuehrer Prof. Dr. Hirt and to promote all corresponding research and undertakings,
3. to make available the required apparatus, equipment, accessories and assistants, or to procure them,
4. to make use of the facilities available in Dachau,
5. to contact the Chief of the SS Economic and Administrative Main Office (Wirtschaftsverwaltungshauptamt) with regards to the costs which can be borne by the "Waffen-SS". (NO-422, Pros. Ex. 33, R. 156).

In its Judgment, The International Military Tribunal made the following finding of fact:

"Also attached to the SS main offices was a research foundation known as the Experiments . . . nenerbe. The scientists attached to this organization are stated to have been mainly honorary members of the SS. During the war an institute for military scientific research became attached to the Ahnenerbe which conducted extensive experiments involving the use of living human beings. An employee of this institute was a certain Dr. Rascher, who conducted these experiments with the full

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knowledge of the Ahnenerbe, which were subsidized and under the patronage of the Reichsfuehrer SS who was a trustee of the foundation". (Transcript, p. 16952-3).

The evidence has shown that Sievers was, for all practical purposes, the acting head of the Ahnenerbe. In this capacity, he was subordinated to Himmler and regularly reported to him on the affairs of this Society. (Sievers, R. 4669). The top secret correspondence of Himmler concerning the Ahnenerbe was sent to Sievers. (NO-422, supra). Sievers himself admitted that the curator, Meist, was frequently absent from Berlin and it is obvious that he did not play an important part. (R. 5669-70). Dr. Sievers was deputy to Dr. Montzel, who was the head of the Managing Board of Directors of the Reich Research Council. (NO-670, Pres. Ex. 31, R. 135). At some time prior to 18 November 1943, Sievers apparently was promoted to Chief of that Board. (NO-3671, Pres. Ex. 539, R. 10363). The proof has shown that the Reich Research Council supported and furthered medical experimentation on concentration camp inmates. As early as December 1942, the Reich Research Council was asked by the Reichsminister of Finance to pass judgment on a request for research funds by Reichsarzt SS Grawitz. Dr. Montzel, Sievers' immediate superior, approved of this allocation of funds on 25 March 1943, saying: "As far as they, to a smaller part, are meant for the extension of scientific research possibilities they pertain exclusively to such matters which can be carried out only with the material (prisoners) accessible to the

Waffen SS and therefore cannot be undertaken by any other research agency." (002-P3, Pros. Ex. 39, R. 152). (Transcript is incorrect at this point and reference should be made to Document Book No. 1). The Prosecution called the Tribunal's attention to the finding of the International Military Tribunal in Case No. 1 which reads as follows:

"In connection with the administration of the concentration camps, the SS embarked on a series of experiments on human beings which were performed on prisoners of war or concentration camp inmates. These experiments included freezing to death and killing by poison bullets. The SS was able to obtain an allocation of Government funds for this kind of research on the grounds that they had access to human material not available to other agencies." (R. 153).

The activities of the Reich Research Council in criminal experimentation on involuntary human subjects were not limited to approving funds for research by the SS. Research assignments were commissioned by it, involving experiments on concentration camp inmates. Thus, in the autumn of 1943, Rascher received an assignment from the Reich Research Council to conduct dry freezing experiments, while Hirt was carrying out the mustard gas experiments in Natzweiler with its support. (NO-590, Pros. Ex. 120, R. 371; NO-432, Pros. Ex. 119, R. 369). An interest was also shown in the blood coagulant developed by Rascher in Dachau, during experiments with which concentration camp inmates were shot. (NO-613, Pros. Ex. 243, R. 962). And, together with the Luftwaffe,

the Reich Research Council sponsored typhus, yellow fever, and jaundice experiments by Haagen on inmates of the Natzweiler Concentration Camp, (NO-137, Pros. Ex. 189, R. 737). Such were the activities of the Reich Research Council. As an important member of this group or organization (Reich Research Council) connected with the commission of such crimes, and indeed as a personal participant in them, Sievers must be found guilty under the provisions of Section 2 of Article II of Control Council Law No. 10.

These then were the positions of responsibility of the defendant Sievers: Colonel in the SS, Reichs Business Manager of the Ahnenerbe and director of its Institute for Military Scientific Research, and Deputy Head of the Managing Board of Directors of the Reich Research Council.

II. PERSONAL RESPONSIBILITY FOR AND PARTICIPATION IN CRIMINAL ACTIVITIES

Sievers was neither a doctor nor a scientist. The Prosecution does not contend that Sievers personally performed any experiments. Prosecution is in accord with Sievers as to the nature of his duties as Reich Manager of the Ahnenerbe. When Grawitz criticized Sievers' participation in medical experiments, Sievers defended his position as follows in a letter to Rudolf Brandt of 28 January 1943:

"I am slightly astonished about the cause of the discussion, for the orders of the Reichsfuehrer SS were especially to the effect that we - that is the Ahnenerbe - were to take Dr. Rascher's

work under our care. The argument of SS-Gruppenfuhrer Grawitz that it constituted an unbearable situation to have a non-physician give information on medical matters is not pertinent. I have never claimed to be a judge of medical matters, nor do I consider it one of my duties. My duty merely consists in smoothing the way for the research men and seeing that the tasks ordered by the Reichsfuhrer - SS are carried out in the quickest possible way. On one thing I certainly can form an opinion; that is, one who is doing the quickest job.

"If things are to go on in the future as SS-Gruppenfuhrer Grawitz desires, I am afraid that Dr. Rascher's work will not continue to advance as fast and unhampered as heretofore." (NO-320, Pres. Ex. 103, R. 335; underlining added).

Sievers was not a mere trouble shooter for Himmler. Sievers' statement that he smoothed the way for research workers and expedited research assignments involved, in fact, substantial responsibility. Sievers devoted his efforts to obtaining the funds, materials, and equipment needed by the research workers. The materials obtained by Sievers included concentration camp inmates to be used as experimental subjects. When the experiments were under way, Sievers made certain that they were being performed in a satisfactory manner. In this connection, Sievers necessarily exercised his own independent judgment and had to familiarize himself with the details of such assignments.

Under Paragraph 6 of the Indictment, twelve different types of experiments are particularized. Of these Wolfram Sievers is charged with special responsibility for and participation in high altitude,

freezing, malaria, Lest gas, seawater and typhus' experiments. He is further charged with special responsibility for and participation in the murder and mistreatment of approximately 112 Jews selected for the purpose of completing a skeleton collection for the Reich University in Strassbourg. The proof has also shown that Sievers participated in the polygal experiments. In order to simplify the issues, the Prosecution withdraws herewith its charge of participation in the epidemic jaundice experiments.

... High Altitude Experiments (Indictment, Par. 6(...))

For a detailed description of the high altitude experiments, reference may be made to the Prosecution's brief against Ruff, Romberg, and Woltz.

The proof shows that, on the side of the SS, the high altitude experiments were supported primarily through the agency of the Ahnenerbe and Sievers. As early as May 1939, Sievers had assisted Rascher in his experiments on concentration camp inmates. At that time, he arranged for Rascher to enter Dachau for the purpose of conducting blood crystallization experiments. Because of delays in the start of the high altitude experiments, Rascher approached Himmler in February 1942, through his wife, and asked that he be allowed to participate in the experiments as a member of the Ahnenerbe. (NO-263, Pros. Ex. 47, R. 172). Rascher himself approached Sievers for assistance in this matter. Sievers made an inquiry to the defendant Rudolf Brandt on 9 March concerning the participation of Rascher in the

high altitude experiments which were to be carried out on the inmates of the Concentration Camp Dachau. This is apparent from Brandt's reply of 21 March in which he informed Sievers that Himmler had approved of such experimentation under the condition that Rascher would participate in them. (1581a-PS, Pros. Ex. 48, R. 175). Sievers admitted having received this letter from Brandt. He admitted further that he had been informed by Rascher in the beginning of March 1942 that his research work at Dachau was to be supported by the Ahnenerbe. (R. 5672).

Sievers' full knowledge of and participation in the high altitude experiments is further proved by the testimony of the witness Neff, who stated that Sievers inspected Dachau when Rascher's experimental station was being prepared and the low-pressure chamber had just arrived. (R. 623). Rascher, in his letter, dated 8 April 1942, in which he expressed his gratitude "for the generous realization" of his proposal to conduct the high altitude experiments, mentioned that Sievers actually watched some of the experiments and did not forget to stress the importance of Sievers' collaboration. He said:

"SS-Obersturmbannführer Sievers took a whole day off to watch some of the interesting standard experiments and may have given you a brief report.....I am very much indebted to Obersturmbannführer Sievers as he has shown a very active interest in my work in every respect." (1971a-PS, Pros. Ex. 49, R. 175).

Sievers admitted that he reported to Himmler on his visit in Dachau. (R. 5677, cf. 1971c-PS, Pros. Ex. 50, R. 180). On the basis of the reports of

Sievers and Rascher, Himmler authorized Rascher to continue the high altitude experiments in Dachau. (1971b-PB, Pros. Ex. 51, R. 180). Sievers testified that Himmler informed him that harmless experiments would be conducted on volunteers and dangerous experiments would be carried out only on condemned criminals and that political prisoners would not be used for any experiments. (R. 3677). The proof, however, has shown that 180-200 inmates were experimented upon, that 70 to 80 of the experimental subjects died and that many of them were not condemned to death. (Neff, R. 163). Only a few of the experimental subjects could possibly be called "volunteers". These inmates are said to have "volunteered" because Rascher promised them that they would be released if they underwent the experiments. (Neff, R. 614). Rascher never fulfilled his promises. (Neff, R. 615). From Sievers' own testimony it is apparent that he was well aware that the experimental subjects used by Rascher and his collaborators in the high altitude and freezing experiments were by no means volunteers. (See Freezing Experiments, infra). Sievers admitted having been told by Rascher that several of experimental subjects died as a result of the high altitude experiments. (R. 5868).

On 20 July 1942, Rascher submitted the final report which had been made by him and Renberg on the high altitude experiments to the defendant Rudolf Brandt for the purpose that the latter might submit it to Himmler. (1607a-PB, Pros. Ex. 65, R. 204).

copy of the report was sent by Himmler to Field-marshal Milch on 25 August 1942 with the request that Milch should permit Rascher and Romberg to lecture before him on this subject and to show a motion picture which had been made by Rascher. Himmler considered the results of the experiments so important for the Luftwaffe that he was convinced that Milch, having seen the picture, would inform Goering about them. (1607b-PS, Pres. Ex. 67, R. 213). Sievers approached the defendant Rudolf Brandt on behalf of Rascher and informed him that Rascher feared that somebody other than he and the defendant Romberg had already reported to Milch on the high altitude experiments. He, Sievers, did not share this opinion. "For who else would have given the report except Rascher and Romberg?" Sievers requested Brandt's information whether he had heard something about the matter and asked further for approval for Rascher to publicize the purely scientific results of the experiments. He, Sievers, would make inquiries with Rascher in what form and to what extent he conceived the publication. (NO-221, Pres. Ex. 68, R. 213). On 29 May, Brandt sent a reply to Sievers, stating that Rascher's assumption was not correct. Himmler had written to Milch only a few days before and Milch himself would issue the necessary orders for the delivery of Rascher's and Romberg's report. Brandt also sent a copy of Himmler's letter to Milch to Sievers. (NO-222, Pres. Ex. 69, R. 215). When Milch informed Himmler on 31 August 1942 that he intended

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to invite Rascher and Romberg to deliver the lecture and show the motion picture (343b-PS, Pros. Ex. 70, R. 215), Brandt immediately informed Sievers and Rascher of this event. (NO-223, Pros. Ex. 71, R. 215).

On 9 October 1942, Rascher wrote to Himmler that he did not deliver the report to Fieldmarshal Milch, which should have taken place on 11 September, as Milch was not present. As he, Rascher, was charged by Himmler to report only to Milch himself, he declined to give his report as no secretary of Milch had been designated to receive it. Rascher went on to say: "My report to you, most honorable Reichsfuehrer, comes so late for this reason. SS-Obersturabannfuehrer Sievers wanted to report directly to you and asked Romberg -- as a neutral (neither Luftwaffe or SS) to give him on 11 September an oral report at the station and invited him to write this report down and to send it to him at once." He further pointed out that it would be necessary that the low-pressure chamber, in which the experiments actually were carried out, should remain at his disposal. (1610-PS, Pros. Ex. 73, R. 217).

On 21 October 1942, Sievers again intervened with the defendant Rudolf Brandt so that Rascher and Romberg might be given the possibility to report to Milch. He enclosed a report concerning the lecture which was made by Romberg and gave the reasons why Romberg and Rascher did not deliver the lecture in the absence of Milch. Sievers stated further:

"The deep freezing experiments are terminated now, so that the continuation of the high altitude flying experiments, as desired by the Reichsfuehrer SS, can now begin. In this connection, we need once more the low pressure chamber, but this time with differential pumps, as otherwise large-scale altitude tests cannot be carried out. The new experiments will also serve to conclude the habilitation thesis of Rascher. The putting at our disposal of the low-pressure chamber, however, will be possible then only, if the Reichsfuehrer SS writes in person to Field Marshal Milch concerning this. I include the draft of such a letter." (NO-226, Pros. Ex. 75, R. 220; NO-224, Pros. Ex. 76, R. 223).

The great interest of Sievers in furthering Rascher's and Rosenberg's experiments is clearly shown by the fact that he included a draft of a letter which Himmler was supposed to write Milch in order to make further experiments possible by securing the low-pressure chamber for the high altitude experiments. Himmler, in fact, drafted a letter in November 1942 along the lines which were suggested by Sievers and requested that Rascher should be transferred to the SS. (1617-1b, Pros. Ex. 77, R. 224). The letter which was to secure the procurement of the low-pressure chamber and Rascher's further cooperation in high altitude and freezing experiments was actually sent by Himmler's adjutant, General Wolff, who wrote to Milch on 28 October 1942. (NO-269, Pros. Ex. 78, R. 226 - emphasis supplied). A copy of this letter was sent by the defendant Brandt to Sievers.

On 13 December 1942, Himmler issued directions

that Rascher was to carry out high altitude experiments for rescue from high and extremely high altitudes, experiments for rewarming after total chilling of the human body, experiments for the removal of effects due to freezing of parts of the human system, especially the extremities, and experiments concerned with the adaptation to freezing cold in snowhuts (4. 1908) to be carried out on the site of the SS mountain retreat, Sudelfeld. Himmler also ordered that various SS agencies and the Ahnenorbe Society should assist Rascher in the procurement of the necessary apparatus, chemical products and medical supplies. The Ahnenorbe received a copy of the letter. (1612-PS, Pros. Ex. 79, R. 229).

That Sievers had a decisive influence on the execution of the high altitude experiments is proved by Rascher's letter to Professor Pfannenstiel in Marburg, dated 18 November 1943 in which Rascher suggested that Pfannenstiel may apply to Sievers for permission to conduct high altitude experiments on human beings. (NO-3671, supra).

During the entire time covered by the period of the high altitude experiments, Rascher was attached to the Ahnenorbe and performed the high altitude experiments with its assistance. Sievers testified that Rascher became associated with the Ahnenorbe at the beginning of March 1942. (R. 5671). On 20 July 1943, when the final report on high altitude experiments was submitted to Himmler, Rascher's name appeared on the letter-head of the Ahnenorbe Institute

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for Military Scientific Research as shown by the cover letter, and the inclosed report bore the statement that the experiments had been carried out in conjunction with the Research and Instruction Association "Das Ahnenorbe". (1307a-PB, Pros. Ex. 65, R. 204; NO-402, Pros. Ex. 66, R. 213).

Sievers had actual knowledge of the criminal aspects of the Rascher experiments. He was notified that Dachau inmates were to be used. He himself inspected the experiments. (R. 5812). Sievers admitted that Rascher told him that several persons died as a result of the high altitude experiments. (R. 5868).

B. Freezing Experiments (Indictment, Par. 6 (3))

Before the high altitude experiments had actually been completed, the freezing experiments were ordered to be performed by the defendant Veltz and his subordinate Rascher. This can be seen from a letter of 20 May 1942 from Hilch to Karl Wolff. (343-PB, Pros. Ex. 62, R. 200). A short time later, Rascher had a conference with Hippke and the experimental team was changed to include Jarisch, Holzschner, and Singer. Rascher reported these orders to Hitler on 15 June 1942, and passed on Hippke's request to have the experiments conducted in Dachau. He stated that: "It was also decided that the Inspector (Hippke) would issue orders to me at all times during the experiments". (NO-283, Pros. Ex. 62, R. 309). The research assignment was issued by

the Referat for Aviation Medicine (2 II B) under Anthony, with the defendant Becker-Freysong as his deputy. (NO-286, Pros. Ex. 86, R. 248)

The cold water freezing experiments began on 15 August 1942 and continued until the early part of 1943. They were performed by Holzlochner, Finko, and Rascher, all of whom were officers in the Medical Service of the Luftwaffe. Holzlochner and Finko collaborated with Rascher until December 1942. As Rascher said in a paper on his medical training: "By order of the Reichsfuehrer SS and Generaloberstabsarzt Prof. Dr. Hippke, I conducted 'Experiments for the Rescue of Frozen Persons' (started on 15 August 1942), in cooperation - for four months - with the University Prof. Dr. Holzlochner, Kiel, and Dr. Finko of the Kiel University." (NO-230, Pros. Ex. 115, R. 356). Rascher also said that: "Since May 1939 till today I have been in military service with the Airforce". The memorandum was dated 17 May 1943. It should therefore be borne in mind that during all of the high altitude and substantially all of the freezing experiments, Rascher was on active duty with the Luftwaffe not the SS. It was not until after May 1943 that he went on active duty with the Waffen SS. He was of course supported by both the Luftwaffe and the SS in these experiments.

The witness Neff, who was an inmate assistant in the experiments, testified that freezing experiments in the concentration camp Dachau started at the end of July or in August 1942. They were conducted by Rascher, Holzlochner and Finko. In October,

Holzlochner and Finke left and Rascher proceeded alone to conduct freezing experiments until May 1945. Rascher, Holzlochner and Finke used ice-cold water for their freezing experiments. The experimental basin had been built two meters long and two meters high in Rascher's experimental station, Block 5. (R. 626-8). The experiments were carried out in the following manner: The basin was filled with water and ice was added until the water measured 3°C. The experimental subjects, either dressed in a flying suit or naked, were placed into the ice water. Narcotics were frequently not used. It always took a certain time until so-called "freezing narcosis" made the experimental subjects unconscious and the subjects suffered terribly. The temperature of the victims was measured rectally and through the stomach by galvanometer. They lost consciousness at a body temperature of approximately 33°C. The experiments actually progressed until the experimental persons were frozen down to 25°C. body temperature. An experiment on two Russian officers who were exposed naked to the ice-cold water in the basin was particularly brutal. These two Russians were still conscious after two hours. Rascher refused to administer an injection. When one of the inmates who attended the experiment tried to administer an anesthetic to these two victims, Rascher threatened him with a pistol. Both experimental subjects died after having been exposed at least five hours to the terrible cold. (Neff, R. 629-631). Approximately 28-300 experimental subjects were used for this type

of freezing experiment, but in reality, 350-400 experiments were conducted since many experimental subjects were used two or three times for experiments. Approximately 80 to 90 experimental subjects died. About 50 or 60 inmates were used in the Holzlochner-Finke-Rascher experiments and approximately 15 to 18 of them died. Political prisoners, non-German nationals and prisoners of war were used for these experiments. Many of the inmates used had not been "condemned to death". The subjects did not volunteer for the experiments. (Neff, R. 627-8).

Even though one assumes that prisoners condemned to death were used in all of the experiments, which is not true, the "defense" that they volunteered on the agreement that their sentences would be commuted to life imprisonment is invalid. During the high altitude experiments, Hitler had directed that in further experiments where the long continued heart activity of subjects who were killed was observed, criminals condemned to death should be used and, if they were revived, they should be "pardoned" to concentration camp for life. (1971b-PS, Pros. Ex. 51, R. 180). Rascher apparently construed this order to apply to the freezing experiments also. On 20 October 1942, Rascher advised Rudolf Brandt that up until then only Poles and Russians had been used for such experiments and that only some of these persons had been condemned to death. He inquired whether Hitler's "amnesty" applied to Russians and Poles. (1971d-PS, Pros. Ex. 52, R. 183). Brandt told him that it did not apply. (1971c-PS, Pros. Ex. 53,

R. 183). For further discussion of this alleged defense, see the Prosecution's Closing Argument.

Dry freezing experiments were carried out by Rascher in January, February and March 1943. One experimental subject was placed on a stretcher at night and exposed to the cold outdoors. He was covered with a linen sheet, but a bucket of cold water was poured over him every hour. He remained outdoors until the morning and then his temperature was taken with a thermometer. In the next series experimental plan was changed, and experimental persons had to remain naked outdoors for long hours without being covered up at all. One series was carried out on 10 prisoners who had to remain outdoors overnight. Rascher himself was present during approximately 18 - 20 experiments of that type. Approximately 3 experimental subjects died as a result of the dry freezing experiments. (Neff, R. 636-7).

On the order of Grawitz and Rascher, a mass experiment on 100 experimental subjects was to be carried out. As Rascher was not present, Neff was in the position to frustrate the experiment by taking the experimental subjects indoors, and therefore no deaths occurred during this experimental series. The longest period that experimental subjects were kept outdoors in the cold was from 6 p.m. to 9 a.m. the following morning. The lowest temperature Neff can recollect during the dry freezing experiments was 25° body temperature. As Rascher had prohibited that experiments were to be carried out under anes-

thetics, the experimental subjects suffered great pain and screamed to such an extent that it was impossible to carry out further experiments. Rascher therefore requested Himmler's permission to carry out such experiments in the future in the Auschwitz Concentration Camp. Non-German nationals and political prisoners were among the experimental subjects. None of them were sentenced to death. They had not volunteered for the experiments. (Neff, R. 637-9).

In connection with the freezing experiments, Neff further testified that in September 1942 he received orders from Silvers to take the hearts and lungs of 5 experimental subjects who had been killed in the experiments to Prof. Hirt in Strassbourg for further scientific study. The travel warrant for Neff had been made out by Silvers and the Ahnenorbe Society paid the expenses for the transfer of the bodies. One of the 5 experimental subjects killed had been a Dutch citizen. (Neff, R. 633). Silvers visited the experimental station quite frequently during the freezing experiments. (Neff, R. 635).

Neff's testimony is corroborated by the affidavits of the defendants Rudolf Brandt and Becker-Freysong (NO-242, Pres. Ex. 80, R. 230; NO-448, Pres. Ex. 81, R. 235), and the testimony of the witness Lutz (R. 266-76), Vieweg (R. 431), and Michalowsky (R. 878-83), and by the documentary evidence in the record.

On the 15th of June 1942 Rascher informed Himmler that the Inspector of the Medical Service of the Luftwaffe, Hippke, sought permission for cold ex-

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periments to be conducted by Rascher and Holzlochner in the Dachau Concentration Camp. (NO288, Pres. Ex. 82, R. 239). On the 10th September, Rascher submitted his first intermediary report on the freezing experiments to Hitler. In the covering letter Rascher stated that Holzlochner, who participated in the execution of the experiments on behalf of the Luftwaffe, intended to lecture on the subject of freezing in the "cold conference" of the Luftwaffe on the 26 - 27 October in Nurnberg. Rascher informed Hitler that "Sievers, who surveyed the experiments in Dachau last week, believed that if any report was to be made at a meeting, I should be called upon to submit the report". (NO-234, Pres. Ex. 83, R. 241). The intermediary report itself shows on its face that fatalities occurred as a result of the Rascher-Holzlochner-Finke experiments, and advocated rapid re-warming of severely chilled persons. Rascher considered that re-warming with animal heat would be too slow, and that experiments in this respect would be unnecessary. He voiced a similar opinion as to the use of drugs for the purpose of re-warming. (1618-PS, Pres. Ex. 84, R. 241). Hitler, when acknowledging the receipt of Rascher's report on the 22nd September, directed nevertheless that the experiment with re-warming by means of drugs and body heat should be made. A copy of this order of Hitler's was forwarded to Sievers on the 25th September. (1611-PS, Pres. Ex. 85, R. 244).

On the basis of this order Rascher approached

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Sievers to make arrangements for 4 female Gypsies to be procured at once for the purpose of re-warming experimental subjects. (NO-285, Pros. Ex. 86, R. 244). It was apparently Sievers' effort in this regard which resulted in a series of telegrams to transfer these women from the Ravensbruck Concentration Camp to Dachau. Rudolf Brandt actually directed the transfer. (1619-PS, Pros. Ex. 87, R. 274-8). The 4 women arrived in November 1942 in Dachau. Three of them were used for re-warming of frozen experimental subjects, one being excluded because she was a "nordic" type. That the experimental subjects were not volunteers is plain from a remark of one of these women: "better half a year in a brothel than half a year in the concentration camp". (NO-323, Pros. Ex. 94, R. 325). This series of experiments, which was not only murderous but obscene, was carried out by Rascher between November 1942 and February 1943. His report to Hitler reveals that one of the experimental subjects died as a result of this series of experiments. (1616-PS, Pros. Ex. 103, R. 342).

On 8 October 1942, Stabsarzt Prof. Anthony of the Medical Inspectorate of the Luftwaffe, approached Hitler with the information that the results of the wet freezing experiments carried out by Rascher in cooperation with Holzlochner and Finko were to be lectured upon by Holzlochner during the "cold conference" on 26- 27 October in Nurnberg. (NO-286, Pros. Ex. 88, R. 248, compare NO-234 supra). On 16 October Rascher also asked Hitler's permission to re-

lease the results of the freezing experiments during these "cold conferences". (HC-225, Pros. Ex. 89, R. 250). On the same day Rascher submitted to Himmler his final report on the freezing experiments as far as they had been carried out in collaboration with Holzlochner and Finke. This report did not include experiments for re-warming by means of drugs and of animal body heat, which at that time were still in progress. (1613-PS, Pros. Ex. 90, R. 251). This report on "Cooling Experiments on Human Beings" by Holzlochner, Rascher and Finke, corroborates fully the testimony of Neff concerning this series of the wet freezing experiments, and proves that many fatalities occurred. It shows that some of the experimental subjects were exposed to this terrible type of experimentation without receiving anesthetics, which would have alleviated their pain considerably. The sufferings of the experimental subjects were vividly described. Foam appeared round the mouths of the experimental subjects, and breathing difficulties and lung edema resulted. The cooling of the neck and back of the head of the experimental subjects caused especially painful sensations. Progressive rigor, which developed very strongly in the arm muscles, cyanosis and total irregularity of the heart activity, were the symptoms observed by the experimenters. Hot baths were advocated as the best treatment for severely chilled persons. Fatalities resulted from heart failure and brain edema, and measures for protection against such results were dis-

cussed at great length. (NO-428, Pros. Es. 91, R. 252).

Sievers denied that Rascher reported to him on the freezing experiments, but admitted that he received occasionally Rascher's reports from Himmler. (R. 5684-5). But by the testimony of the witness Neff it is not only proved that Rascher submitted to the "Annenorbe" monthly, quarterly, and semi-annually reports describing in detail the nature and status of his experimental research (R. 635), but also that the final report of Rascher, Holzlochner and Finko (NO-128 supra) was forwarded to him. (R. 681).

On 24 October Himmler acknowledged the receipt of this report which he had read "with great interest", and charged Sievers with arrangements for "the possibility of evaluation at institutes which are connected with us". (1609-PS, Pros. Ex. 92, R. 264).

On 26 and 27 October 1942, the conference on "Medical Problems Arising from Distress at Sea and Winter Hardships", sponsored by the Inspector of the Medical Service of the Luftwaffe, Hippke, under the chairmanship of Anthony and with the assistance of Becker-Freysong, took place in Nurnberg. At this conference Holzlochner delivered his lecture on the freezing experiments under the title "Prophylaxis and Treatment of Freezing in Winter".

The very detailed clinical observations described by him excluded the possibility that only observations on human beings who were rescued had been made, and made it clear that experiments on human

beings had been conducted. (NO-401, Pros. Ex. 93, R. 309). Moreover, Rascher made a statement following Holzlochner's lecture, which clearly revealed that the experiments had been carried out on concentration camp inmates. This report caused a sensation among the officials present at the lecture. It was made clear that deaths had occurred. (Lutz, R. 272). Silvers denied having received a report on this conference (R. 5689), but the entry of 12 January in his Diary for the year 1943 shows that he discussed with Rascher the "procurement of memoranda on the conference concerning the effect of cold, in Nurnberg". (NO-538, Pros. Ex. 122, R. 379).

On 6 November 1942, Rascher forwarded a memorandum to Himmler's personal staff, the office of the defendant Rudolf Brandt, regarding cooperation with Dr. Gromer of the Medical Research Station for Mountain Medical Troops at St. Johann. This was a school subordinated to Handloser as Army Medical Inspector. In this memorandum Rascher advocated dry freezing experiments on concentration camp inmates in the mountain region of Byrischzell. The purpose was to investigate whether injuries of the extremities due to freezing would have a better prognosis on persons accustomed to cold than on persons unaccustomed to it. Rascher said that Gromer had heard the report in Nurnberg and was very enthusiastic about the experiments. He requested to see some in progress. (NO-319, Pros. Ex. 96, R. 328; 1579-PS, Pros. Ex. 97, R. 329). Himmler gave his permission

for this type of dry freezing experiment in an order dated 13 December 1942, in which he lists Rascher's assignment for the execution of high altitude and three different types of freezing experiments. Copies of this order were submitted to various SS Agencies and to the Ahnenorbe Society. (1612-PS, Pros. Ex. 79, R. 229). Himmler's letter contained the following directive:

"5. The procurement of the apparatus needs for all the experiments should be discussed in detail with the offices of the Reichsarzt SS, Main Office for Economics and Administration, and with the Ahnenorbe...."

The evidence proves that prior to 21 October 1943, Rascher received an assignment from Blome of the Reich Research Council to conduct open air freezing experiments. (NO-432, Pros. Ex. 119, R. 369). Sievers aided Rascher in the matter of obtaining the location and personnel for these experiments. (3546-PS, Pros. Ex. 123, R. 382, entry for 21 Jan. '44).

On 13 January 1943, Rascher had a conference with Grawitz and the defendant Poppendick concerning the freezing experiments. In this conference Rascher's freezing experiments were discussed in detail. He stressed the point that he was working with the "Ahnenorbe" and that he reported to the Ahnenorbe. The documentary note of Rascher's on this conference shows on its face that wet freezing experiments had been conducted by him, and that Grawitz requested him to carry out further freezing experiments with dry cold until he would "have a few hundred cases".

This documentary note was forwarded by Sievers to the defendant Rudolf Brandt on 28 January. In his covering letter Sievers requested Brandt's opinion as to what attitude he and Rascher were to take in respect of their position to Grawitz, with the implied request that Brandt should strengthen his position with Grawitz, who considered it "an unbearable situation to have a non-physician give information on medical matters". What Sievers wanted to achieve was an intervention of Brandt with Himmler on his behalf and, therefore, he stressed his personal importance by saying:

"My duty merely consists in smoothing the way for the research men and seeing that the tasks ordered by the Reichsfuehrer SS are carried out in the quickest possible way. On one thing I certainly can form an opinion - that is, on who is doing the quickest job.

"If things are to go on in the future as SS-Gruppenfuehrer Grawitz desires, I am afraid that Dr. Rascher's work will not continue to advance as fast and unhampered as hitherto." (NO-320, Pros. Ex. 103, R. 335-9).

On 17 February, Rascher forwarded his report on the results of the experiment in which animal warmth was used for the re-warming of severely chilled persons. (1616-PS, supra). In his accompanying letter to Himmler, he informed him that he was conducting dry cold experiments in Dachau. Thirty experimental subjects had been experimented upon and had been exposed to cold out of doors from 9 - 14 hours, thereby reducing their body temperature to 27 - 29°C. The extremities of the experimental subjects were frozen

white. Rascher suggested a large series of experiments in the Auschwitz Concentration Camp. This place would be suitable for such experimentation because it was colder there, and the spacious open country within the camp "would make the experiments less conspicuous, as the experimental subjects woll when they freeze severely". (1616-PS, supra, emphasis supplied). Himmler gave Rascher permission to carry out additional freezing experiments in the Concentration Camps Auschwitz and Lublin. (1615-PS, Pres. Ex. 109, R. 350).

Rascher's letter to the defendant Rudolf Brandt, dated 4 April 1943, reveals that another series of dry freezing experiments had been carried out on inmates of the Dachau Concentration Camp during a period of heavy frost weather. Some of the experimental subjects were exposed to cold of -6°C . in the open air for fourteen hours and had reached an internal temperature of 25°C . (NO-292, Pres. Ex. 111, R. 354). The three fatalities which, according to Neff's testimony, resulted from the dry freezing experiments, apparently occurred during this series of experiments. (Neff, R. 637-8).

On 11 April, Rascher submitted to Himmler a brief report concerning "freezing experiments on human beings exposed to the open air". (NO-240, Pres. Ex. 112, R. 354). The report itself is not available, but the letter of the defendant Rudolf Brandt of 16 April to Rascher proves that the defendant Gebhardt received it from Himmler for study. (NO-241, Pres.

Ex. 113, R. 355). A conference between Rascher and the defendant Gebhardt took place in Hohenlychen on 14 May in the presence of the defendant Fischer. Gebhardt discussed with Rascher the freezing experiments and other experimentation carried out in the Dachau Concentration Camp and invited Rascher to collaborate with him. Rascher feared to lose his independence and turned to Sievers to settle this affair in a tactful way as Gebhardt was a very close friend of Himmler, and Rascher, therefore, feared his eventual enmity. (NO-231, Pros. 116, R. 360). Sievers, in turn, approached Brandt in this matter on 22 May and requested information whether Himmler had given any definite directive to Gebhardt in regard to Rascher's sphere of action and work. He further asked Brandt's intervention on behalf of Rascher by saying:

"I entrust you with this affair and ask you particularly to use it only for your strictly personal information so that Dr. Rascher does not encounter any difficulties with SS-Gruppenfuhrer Professor Dr. Gebhardt." (NO-267, Pros. Ex. 117, R. 366).

Then Rascher visited Gebhardt in Hohenlychen, the latter encouraged him to embark upon a career of University lecturer. (NO-231, supra). Rascher followed this suggestion and Sievers supported him wholeheartedly and collaborated with the defendants Brandt and Blome to have Rascher appointed University lecturer. (NO-229, Pros. Ex. 118, R. 367; NO-290, Pros. Ex. 121, R. 373). That Rascher's thesis for

habilitation was based on the freezing and high altitude experiments is proved by Rascher's memorandum on his medical training which he wrote for the purpose of his habilitation (NO-230, Pros. Ex. 115, R. 356), and other evidence in the record. (NO-240, Pros. Ex. 112, R. 354).

About November 1942 it seemed desirable to Sievers to have Rascher transferred from the Luftwaffe to the Waffen SS. Sievers, as Reichs Manager of the Ahnenerbe, corresponded extensively in connection with Rascher's transfer. (NO-268, Pros. Ex. 95, R. 326; NO-236, Pros. Ex. 101, R. 333; NO-320, Pros. Ex. 103, R. 335; NO-238, Pros. Ex. 104, R. 340). This transfer which took place after May 1943, was attended with considerable difficulties, because Hippke did not wish to release Rascher even though he and his associates know of the many deaths in the experiments. Hippke said that Rascher was their connection with the SS. (NO-270, Pros. Ex. 110, R. 351).

In the Sievers' Diary, there are numerous instances of Sievers' activities in the aid of Rascher. On 1 February 1943 Sievers noted efforts in obtaining apparatus, implements, and chemicals for Rascher's experiments. (NO-538, Pros. Ex. 122, R. 379). On the 5th and 21st of January 1944, Sievers noted the problem of location. (3546-PS, Pros. Ex. 123, R. 382). Rascher reported to Sievers periodically concerning the status and details of the freezing experiments. (NO-538, supra, entries for 18 Feb., 12 Mar., and 6 and 7 April 1943).

Sievers had numerous duties in connection with the Rascher reports. It was Sievers who recommended that Rascher be permitted to appear and give a report at the Luftwaffe cold conference held at Nurnberg on 26-27 October 1942. It was Sievers' task to make the preliminary arrangements concerning the presentation of the report. (NO-234, Pros. Ex. 83, R. 241; 1609-PS, Pros. Ex. 92, R. 264). The relationship of Sievers to Rascher in the performance of freezing experiments required Sievers to make the preliminary arrangements for the performance of the experiments, to familiarize himself with the progress of the experiments by personal inspection, to furnish necessary equipment and material, including human beings used during the freezing experiments, to receive and make progress reports concerning Rascher, and to handle the matter of evaluation and publication of such reports. Basically, such activities constituted a performance of his duties as defined by Sievers in his letter of 28 January 1943 to R. Brandt in which he stated that he smoothed the way for research workers and saw to it that Himmler's orders were carried out. (NO-320, Pros. Ex. 103, R. 335).

This is further proved by the fact that Sievers tried to obtain an electro-cardiograph for Rascher's high altitude and freezing experiments in September 1942 (NO-3675, Pros. Ex. 548, R. 10371), and that on 20 October 1942 he approached the Curator of the Ahnenerbe, Tuest, with the request for certain instruments for the use of the Ahnenerbe Institute for Military Scientific Research. (NO-3874, Pros. Ex. 549, R. 10372).

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During the first week of September 1942 and on several other occasions Sievers visited the Dachau experimental station and witnessed freezing experiments. (Neff, R. 635; NO-234, Pros. Ex. 83, R. 241). Sievers testified that he was at Dachau on two occasions when freezing experiments were being conducted. On the first occasion, Sievers saw a test person placed in a room and watched the persons in charge read the apparatus. (R. 5684). On the second occasion when Rascher was conducting an experiment with the Monerbe employee, Hirt, Sievers was present when an experiment was conducted which was expected to prove fatal. (R. 5685-7).

C. Malaria Experiments (Indictment, Par. 5 (C))

For a description of the criminal nature of the malaria experiments, reference may be made to the prosecution's brief against the defendant Rose.

Sievers had knowledge of and supported the criminal malaria experiments in Dachau. He testified that in early 1942 he learned from Himmler that Schilling was conducting malaria experiments in Dachau. (R. 5692). In a memorandum dated 3 April 1942 concerning a consultation between Sievers and Dr. May on the location of an experimental station for the Monerbe, Sievers mentioned, as a persuasive reason for locating in Dachau, the fact that Schilling was carrying out his malaria experiments there. (NO-721, Pros. Ex. 126, R. 404). Although this memorandum gives the name as "Schlonk", Sievers testi-

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fied that the name Schilling was intended. (R. 5693).

The witness Viwey testified that in late 1943 or early 1944 Sievers made several visits to Schilling's malaria station where he consulted with Floetner, who was a collaborator of Schilling's. (R. 445-7, 464). He stated that Sievers consulted with Schilling and also inspected the laboratory. (R. 423). Sievers testified that the purpose of those visits and consultations was to arrange for the transfer of Floetner to the Institute for Military Scientific Research of the Wehrmacht.

A number of entries in the Sievers Diary for 1944 prove that Sievers was connected with and supported the malaria experiments. On 30 January he received a memorandum by Floetner on malaria. A notation of 22 February states that "further work in the matter of SS-Hstuf. Dr. Floetner to be done through RGF". (Reichsgesundheitsfuhrer Contl). Floetner, in addition to his work with Schilling, was also collaborating with Rascher in the blood coagulation experiments. (See entries of 29 Jan., 14 Apr.). On 10 May 1944 the entry indicates that Rascher's research work was transferred to Floetner. This was apparently a result of Rascher's difficulties in connection with the kidnapping of children by him and his wife. On 23 May 1944 Floetner was charged with the management of the Wehrmacht Division in Dachau. The entry for 31 May indicates that Sievers and Grawitz reached an understanding concerning Floetner's continued collaboration with Schilling.

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On 21 June Sievers conferred with Schilling about limiting Ploetner's activities with him after his transfer to the Ahnenerbe. Ploetner was actually appointed department head in the Institute for Military Scientific Research of the Ahnenerbe on 27 June. The entry for 24 August 1944 notes that collaboration between Schilling and Ploetner had been agreed upon. (3546-PS, Pros. Ex. 123, R. 382).

D. Lost (Mustard) Gas Experiments (Indictment, Par. 6 (D)).

From the winter of 1942 until the summer of 1944 experiments to determine the most effective treatment for wounds caused by Lost (Mustard) gas were conducted in the Natzweiler Concentration Camp under the supervision of Professor Hirt of the Reich University of Strassbourg. The experiments were ordered by Himmler and the Luftwaffe, and sponsored by the Reich Research Council. The Ahnenerbe Society and the defendant Sievers supported this research on behalf of the SS. (492-PS, Pros. Ex. 267, R. 1034). The arrangement for the payment of the research subsidies of the Ahnenerbe was made by Sievers. (NO-3819, Pros. Ex. 550, R. 10372).

The defendant Sievers participated in these experiments by actively collaborating with the defendants Karl and Rudolf Brandt, and with Hirt and his principal assistant, Dr. Zimmer.

The record shows that Sievers was in correspondence with Hirt at least as early as January 1942,

and that he established contact between Himmler and Hirt. (NO-791, Pres. Ex. 256, R. 1016; NO-792, Pres. Ex. 257, R. 1017).

On 9 April 1942 Sievers wrote to Hirt that Himmler wanted detailed information from Hirt on his Lost experiments. Sievers went on to say:

"We are sure to be in a position to put at your disposal for the furtherance of these experiments unique facilities in connection with special secret experiments which we are at present conducting at Dachau. Could you not some day write a brief secret report for the Reichsfuehrer-SS on your Lost experiments?"

"But you should by no means go to Berlin for the time being, especially since the Reichsfuehrer-SS is staying permanently at the Fuehrer's Headquarters. I, therefore, intend to pay you a visit at Strassbourg as soon as possible. But perhaps it would be easier for you to come to Munich, where I would have the opportunity of introducing you to the Chief of our Institute for Entomology and would be able to give you an insight into our secret experiments at Dachau." (NO-793, Pres. Ex. 258, R. 1019).

The wording of the letter makes it apparent that it was Sievers himself who brought Hirt's research activities concerning Lost gas to Himmler's attention. This is also proved by the fact that on the 9 February 1942, he had already submitted to the defendant Rudolf Brandt Hirt's report concerning the creation of a skeleton collection (infra) and research in the field of intravital microscopy. The latter experimentation involved the effect of Lost on the living tissue. (NO-085, Pres. Ex. 175, R. 695). Brandt informed Himmler about Hirt's report on 27 February, and directed Sievers to report again on Hirt's work.

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(NO-090, Pros. Ex. 176, R. 699). It was thus Sievers' report on Hirt's research activities which prompted Himmler to take an interest in Hirt's Lost experiments.

On 27 June 1942 Sievers forwarded to the defendant Rudolf Brandt the information of Hirt's concerning the use of Mustard gas on combatting rats. In this letter he mentioned that he would have another conference with Hirt on this subject. According to Sievers, Hirt had voiced his expert opinion that Lost even "in a dilution of 1 - 1000 is dangerous for man if it contacts the body in an adequate amount".

(NO-794, Pros. Ex. 259, R. 1021). It was Sievers who forwarded on 2 June 1942 Hirt's report on his experiments in treating gas wounds by vitamins. In his covering letter to this report, Sievers informed the defendant Rudolf Brandt, that he was to meet Hirt "in order to discuss with him a more intensive application, continuation and promotion of his research work". In the report itself Hirt stated that he had not been able to conduct experiments with Lost gas on human beings because of the offensive against France, but suggested such experiments particularly in order to determine the protective effect of vitamin treatment. (NO-097, Pros. Ex. 260, R. 1022).

In a memorandum of 26 June 1942 concerning support by the Ahnenerbe of the research work of Hirt on mustard gas, Sievers proposed that an Institute for Military Scientific Research be established within the Ahnenerbe to bring together Hirt's and similar

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research and thus facilitate the organizational and technical execution of the experiments. He proposed appointing Hirt as an active member of the new institute as chief of Department H (Hirt). He also stated that Rascher, who was then performing high altitude experiments in collaboration with Ruff and Romberg, should be appointed as chief of Department R (Rascher). He stated that the necessary supplies for the new institute would be easier to explain and more reasonable than if applied for under the name of Ahnenorbe alone. (NO-2210, Pros. Ex. 483, R. 5850).

As a result of this suggestion by the defendant Sievers, Himmler directed the establishment of the Institute for Military Scientific Research within the Ahnenorbe in July 1942. In his letter to Sievers, Himmler requested that the new institute "support in every possible way the research carried out by SS-Hauptsturmfuehrer Prof. Dr. Hirt and promote all corresponding research and undertakings; to make available the required apparatus, equipment accessories and assistants, or procure them....." (NO-422, Pros. Ex. 33, R. 136).

Sievers proceeded to make all the necessary arrangements for carrying out the Lost gas experiments in the Natzweiler Concentration Camp. On 27 August 1942 in a letter to Gluecks of the WVHA, he stated that in connection with a visit to Hirt in Strassbourg he would like to take Hirt with him to Natzweiler on 31 August 1942 and he asked Gluecks to make the neces-

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sary arrangements with the commander of the camp. (NO-935, Pres. Ex. 41, R. 5845). In a file note dated 17 September 1942 Sievers stated that the conference mentioned in his letter to Gluecks had been held in Natzweiler on 31 August 1942, and that the working conditions there for the proposed experiments were favorable. Prof. Hirt, Stabsarzt Dr. Wimmer and Dr. Kiesselbach would require automobile transport for part of the trip from Strassbourg to Natzweiler in order to perform their work there, and accordingly 20 liters of gasoline would have to be made available to the camp authorities each month. (NO-977, Pres. Ex. 482, R. 5847). In a letter of 11 September 1942 to Gluecks, Sievers stated that the necessary conditions existed in Natzweiler "for carrying out our military scientific research work"... He requested that Gluecks issue the necessary authorization for Hirt, Wimmer and Kiesselbach to enter Natzweiler, and that provision be made for their accommodation and board. He also stated that:

"The experiments which are to be performed on prisoners are to be carried out in four rooms of an already existing medical barrack. Only slight changes in the construction of the building are required, in particular the installation of a hood which can be produced with very little material. In accordance with attached plan of the construction management at Natzweiler, I request that necessary orders be issued to same to carry out the reconstruction. All the expenses arising out of our activity at Natzweiler will be covered by this office..." (NO-978, Pres. Ex. 480, R. 5843).

In a memorandum on 3 November 1942 to the defendant Rudolf Brandt, Sievers complained about certain

difficulties which had arisen in Natzweiler because of the lack of cooperation from the camp officials. Sievers was particularly outraged by the fact that the camp officials were asking that the experimental prisoners be paid for. He said that:

"When I think of our military research work conducted at the Concentration Camp Dachau, I must praise and call special attention to the generous and understanding way in which our work was furthered there and to the cooperation we were given. Payment of prisoners was never discussed. It seems as if at Natzweiler they are trying to make as much money as possible out of this matter. We are not conducting these experiments, as a matter of fact, for the sake of some fixed scientific idea, but to be of practical help to the armed forces and beyond that, to the German people in a possible emergency."

Brandt was requested to give his help in a comradely fashion in setting up the necessary conditions at Natzweiler. (NO-098, Pros. Ex. 263, R. 1028). The defendant Rudolf Brandt replied to this memorandum on 3 December 1942, and told Sievers that he had had occasion to speak to Pohl concerning these difficulties, and that he had reported that they would be remedied. (NO-092, Pros. Ex. 180, R. 702).

The witness Holl gave in his testimony an accurate and detailed description of the manner in which the Lest gas experiments were carried out. The execution of the experiments was supervised by Hirt, in the experimental station Ahnenorbe in the Natzweiler Concentration Camp. In the middle of October 1942 the preparation for these experiments was finished, and the actual experimentation began some time in

October or November, after the experimental subjects were given the same food as the SS guards for approximately 14 days. The first series of experiments was carried out by Hirt on 30 experimental subjects with a liquid gas substance. (R. 1051). In spite of the fact that Hirt, before selecting these experimental subjects, had promised them that he would intervene with Himmler in order that they should be released as a reward if they would volunteer for the experiments, none of the experimental subjects of all the experiments carried out by Hirt volunteered. Political prisoners, Russians, Poles, Czechs and also some German nationals, were among the experimental subjects used. (R. 1052).

The first series of experiments was carried out by Hirt and an officer of the Luftwaffe in the following manner: One drop of the liquid was applied to the lower arm of the experimental subject. Approximately 10 hours later burns began to appear and spread over the whole body in every place where drops of the fluid contacted the skin. Some of the experimental subjects became partially blind. The victims of these experiments suffered terrible pain. Photographic pictures of the burns were taken daily. After the fifth or sixth day of the experiment, the first fatality occurred. The corpse of the victim was dissected and the autopsy showed that the greater parts of the lungs and other organs had been destroyed. On the following day, i.e., on the seventh day of the experiment, another seven of the experimental subjects

died. The remaining twenty-two were sent to another concentration camp after approximately 2 months when they had recovered sufficiently and became fit for transport. (R. 1052-3). Other experiments on concentration camp inmates of the Natzweiler Concentration Camp were carried out in the gas chamber approximately 500 meters distant from the camp. The experimental subjects had to enter this gas chamber two by two. They had to smash small ampules which contained the liquid. This liquid evaporated and the experimental subject then had to inhale the resulting vapor. Usually the experimental subjects became unconscious and were returned to the Ahnenerbe station for further observation of the results of the experiments. (R. 1053-4). These results were approximately the same as those observed in the first series. The breathing organs of the experimental subjects were likewise destroyed. Their lungs had been eaten away by the gas. About 150 concentration camp inmates were experimented upon in this manner. (R. 1054-5). Approximately the same percentage as in the first series died as a result of this type of experimentation. (R. 1056).

Other Last gas experiments were carried out by means of injection. These experiments were carried out in a special room adjoining the crematorium. The victims of these experiments died without exception. (R. 1056). Another type of experiment was carried out on the experimental subjects, who had to take the liquid orally. As Holl was transferred be-

fore Christmas 1943 to an outside camp, he was not able to give information on the results of this type of experiment. (R. 1056). He, however, returned once a month to the Natzweiler Concentration Camp and was therefore able to observe that the Lost gas experiments continued until Autumn 1944, when the Natzweiler Concentration Camp was liberated by the Allies. (R. 1057-8).

From Holl's testimony it is proved that approximately 220 inmates of Russian, Polish, Czech and German nationality were experimented upon with gas by Hirt and his collaborators. About 50 of them died. None of the experimental subjects volunteered. (Holl, R. 1052, R. 1057).

On 7 April 1943 when the Lost experiments were well under way (supra), Himmler ordered an intensification of Lost research. At about this time the progress of Hirt's Lost research was threatened by the transfer of Hirt's assistant, Wimmer, a medical officer of the Luftwaffe. Since personnel matters fell within the scope of Sievers' duties, he wrote to Rudolf Brandt protesting the proposed transfer of Wimmer and stating that if Wimmer left the Institute for Military Scientific Research, the Lost experiments would have to end. Sievers then outlined the proper procedure for securing the future services of Wimmer at the Ahnenerbe institute. (HO-193, Pres. Ex. 264, R. 1030).

Again, on 3 November 1943, Sievers, in order to further the Lost experiments and assure their continuation, made a certificate which enabled two of Hirt's

research assistants to obtain increased food rations. Sievers stated that the research activities in which these persons were engaged with Department H (Hirt), Strassbourg, of the Institute for Military Scientific Research of the Ahnenorbe involved health damaging poisons which had caused injuries to their health. (492-P3, Pros. Ex. 267, R. 1034).

The evidence clearly indicated that during the entire period covered by the Lost experiments, Hirt was associated with the Ahnenorbe Society. In early 1944 Hirt and Winner summarized their findings from the Lost experiments in a report entitled "Proposed Treatment of Poisoning caused by Lost". The report was described as from the Institute for Military Scientific Research, Department H of the Ahnenorbe, located at the Strassbourg Anatomical Institute. Light, medium, and heavy injuries due to Lost gas are mentioned. Sievers received several copies of this report. (NO-099, Pros. Ex. 268, R. 1035). On 31 March 1944, after Karl Brandt had received a Fuehrer Decree giving him broad powers in the field of chemical warfare (NO-012, Pros. Ex. 270, R. 1038), Sievers informed Brandt about Hirt's work and gave him a copy of the report. This is proved by Sievers' letter to Rudolf Brandt on 11 April 1944. (NO-015, Pros. Ex. 275, R. 1039). Karl Brandt admitted that the wording of the report made it clear that experiments had been conducted on human beings. (R. 2626).

The proof has also shown that in October 1943 the defendant Blome, in his capacity as a Plenipotentiary in the Reich Research Council, issued a research

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assignment for Hirt in support of his gas experiments. This is proved by the file index card on Blome's research assignment in the Reich Research Council, where the assignment to Hirt by Blome is listed under priority number 0329. (NO-690, Pros. Ex. 120, R. 373). Sievers admitted that a Reich Research assignment to Hirt "on the behaviour of Lost gas in living organisms" was made. (R. 5817). He further admitted that at a conference in April 1942, Himmler told him that Hirt should make Lost experiments on human beings other than volunteer military cadets. (R. 5679).

Sievers testified that on 25 January 1943 he went to Natzweiler concentration camp and consulted with the camp authorities concerning the arrangements to be made for Hirt's Lost experiments. These arrangements included the obtaining of laboratories and experimental subjects. (R. 5842-43). Sievers testified that the Lost experiments were harmful. (R. 5810). On the visit of 25 January 1943, Sievers saw ten persons who had been subjected to Lost experiments and watched Hirt change the bandages on one of the persons. Sievers said that the experimental subjects told him that they were volunteers and Hirt confirmed this to Sievers. (R. 5732). The testimony of Sievers was contradictory as to his knowledge that the Lost experiments caused deaths. Sievers testified that in March 1943 he asked Hirt whether any of the experimental subjects had suffered harm from the experiments and was told by Hirt that two of the experimental subjects had died due to other causes.

(R. 5733). On the other hand, Sievers seemed to be referring to Lost experiments when he stated that he knew of one condemned criminal who had died from the experiments. (R. 5810). As to the nationality of the experimental subjects, Sievers was of the opinion, in view of their manner of speech, that the test persons were Germans. (R. 5812). The proof, however, is clearly shown that Sievers already, as early as January 1942, had knowledge that non-volunteers were to be used for the Lost experiments of Hirt. In his letter of 3 January 1942, Sievers requested Hirt to submit comprehensive research reports to him in order that he might forward them to Hitler. Sievers assured Hirt that Hitler would permit Hirt to conduct experiments of any kind "on prisoners and real criminals who would never be released anyhow and on persons scheduled for execution". (NO-3629, Pros. Ex. 517, R. 10370).

Sievers diary entries indicate that his primary concern was making the necessary arrangements for the carrying out of the Lost experiments. On 25 January 1943 Sievers visited Natzweiler and consulted with the camp administration; on 28 January 1943 Sievers consulted with Pohl concerning the continuation of the Lost experiments and undoubtedly arranged for the allocation of test persons, although he testified that his conversation related to obtaining space for animals. (R. 5736). On 24 and 25 January Sievers received reports from Hirt on Lost experiments and on 17 March 1943 Sievers attended a conference at the In-

stitute for Military Scientific Research where Lost experiments were reported. (NO-538, Pros. Ex. 122, R. 379).

3. Sea Water Experiments (Indictment, Par. 6 (G))

For a detailed description of the criminality of the sea water experiments, see the Prosecution's brief against Schroeder.

The function of the Anenerbe in the performance of seawater experiments conducted at Dachau from July through September 1944, was chiefly in connection with the furnishing of space and equipment for the experiments. Sievers made those necessary arrangements on behalf of the Anenerbe.

As a result of Schroeder's request to Hitler through Grawitz for permission to perform the sea water experiments on inmates in Dachau, Hitler directed on 8 July 1944 that the experiments be made on Gypsies and three other persons with other racial qualities as controls. (NO-183, Pros. Ex. 136, R. 487).

Sievers must have been immediately advised by Hitler's office of the above authorization for experiments at the Rascher station at Dachau. On the 27th of June 1944, Rascher had been replaced by Floetner as head of the Anenerbe Institute for Military Scientific Research at Dachau. (3546-PS, Pros. Ex. 123, R. 382, entry for 27 June). Sievers on the 20th of July went to Dachau and conferred with Floetner of the Anenerbe Institute and the defendant.

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Beiglboeck, who was to perform the experiments, concerning the execution of the sea water experiments and availability of working space where the experiments could be performed. Sievers agreed to supply working space in the Department Floetner and at the Ahnenerbe Entomological Institute. (3546-P3, supra). On the 26th of July 1944, Sievers made a written report to Grawitz concerning details of his conference at Dachau. Sievers wrote that 40 experimental persons could be accommodated at "our" research station, that the Ahnenerbe would supply a laboratory, and that Dr. Floetner would give his assistance, help, and advice to the Luftwaffe physicians performing the experiments. Sievers also stated the number and assignment of the personnel to be employed in the experiments, estimating that the experiments would cover a period of three weeks and designated 23 July 1944 as the date for starting the experiments, provided the experimental persons were available and the camp commander had received the necessary order from Himmler. In conclusion, Sievers expressed his hope that the arrangements which he had made would permit a successful conduct of the experiments and requested that acknowledgement be made to Himmler as a participant in the experiments. (KO-182, Pres. Ex. 137, R. 481). In his testimony Sievers admitted that he had written the above letter and had conferred with Beiglboeck at Dachau. (R. 5704). As the letter indicates, Sievers was advised of the full details of the sea water experiments. Sievers knew that concentration camp inmates were to be used. Sievers' conference

with Beiglboeck at Dachau was on 20 July. Sievers wrote that the experiments would begin on the 23rd of July or as soon thereafter as experimental subjects were available and the camp commander had received Himmler's order.

The witness May, who was head of a department within the Anatomische Anthropological Institute at Dachau, testified that upon the request of Sievers, that Institute furnished one room which was used by the Beiglboeck group in the performance of sea water experiments. (R. 5880). The testimony of Tschofenig proves that at least one of the experimental subjects died as a result of the sea water experiments. (R. 9339-40).

G. Typhus Experiments (Indictment, Par. 6 (J))

For a detailed description of the criminality of these experiments, reference should be made to the briefs against Rose and Schroeder.

Sievers participated in the criminal typhus experiments conducted by Haagen on concentration camp inmates at Natzweiler by making the necessary arrangements in connection with securing experimental subjects, handling administrative problems incident to the experiments, and by furnishing the Anatomische station with its equipment in Natzweiler for the experiments.

On 16 August 1943, when Haagen was preparing to transfer his typhus experiments from Schirneck to Natzweiler, he requested Sievers to make available a

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hundred concentration camp inmates for his research. This is seen from a letter of 30 September 1943 from Silvers to Haagen in which he states that he will be glad to assist, and that he is accordingly contacting the proper source to have the "desired personnel" placed at his disposal. (NO-120, Pres. Ex. 297, R. 1387). As a result of Silvers' efforts, a hundred inmates were shipped from Auschwitz to Natzweiler for Haagen's experiments. These, however, were found to be in an unsuitable physical condition and hence were rejected by Haagen. In a letter of 15 November 1943 to Hirt he stated that eighteen of the subjects had died during transport, and he requested an additional hundred prisoners whose physical condition was comparable to that of the soldiers. (NO-121, Pres. Ex. 293, R. 1369). One might tend to feel that Haagen and Silvers were in no way responsible for the death of these eighteen inmates. The Prosecution submits that this is erroneous. The transfer from Auschwitz to Natzweiler for the experiments was in any event a part of the causal connection in the deaths of these subjects. Their death was incident to the transfer.

The second group of a hundred experimental subjects was made available, and experiments were carried out by Haagen between the latter part of 1943 and the early summer of 1944. They were carried out in the Ahnenerbe experimental station in Natzweiler. This is proved by excerpts from monthly reports of the camp doctor in Natzweiler. (NO-807, Pres. Ex. 185,

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R. 732, see supplemental translation). Haagen admitted that the excerpts from these reports dated 25 November 1943, 24 December 1943 and 1 February 1944 probably referred to his typhus experiments. (R. 9640-1), 9647). The proof outlined in the Prosecution brief against the defendant Schroeder proves that a substantial number of deaths occurred during the course of these experiments.

On 9 May 1944 in a letter to Hirt, chief of Department H of the Military Scientific Institute of the Wehrmacht, Haagen requested still another two hundred concentration camp inmates for his criminal research. (NO-123, Pros. Ex. 303, R. 1396). This letter was passed on to Sievers to take care of the request and on 19 May 1944 he wrote to Pohl asking that the inmates be made available. He referred to the earlier occasions on which Pohl had furnished prisoners for these experiments. Sievers concluded by stating that:

"According to regulations, Dr. Haagen must report to the Chief of the Medical Service of the Wehr Force concerning his work, in connection with which it must be mentioned with whose support the work is being carried out; these are in the first place the Reich Research Council and secondly the SS. I request your decision if one of the following is to be named as supporting agency of the SS:

- a) The Reichsfuehrer SS or
- b) The SS Economic Administration Main Office
- c) The Institute for Military Scientific Research of the Wehrmacht.
(NO-008, 1944, Ex. 304, R. 1398).

A copy of this letter was sent to the defendant Rudolf Brandt, who on 6 June 1944, wrote to Sievers saying

that all three offices should be mentioned as the supporting agency of the SS. (NO-009, Pros. Ex. 305, R. 1400). Sievers in turn passed this information on to Hirt, who, on 10 July 1944, wrote to Haagen giving the appropriate instructions concerning the credit for the experiments. (NO-129, Pros. Ex. 308, R. 1403).

Haagen's letter of 27 June 1944 to Hart proved beyond any doubt that the experiments which he was performing involved subsequent infection with virulent typhus virus just as did the experiments in Dresdenwald. (NO-127, Pros. Ex. 305, R. 1401). Here again experimental subjects were killed during the course of these experiments, as may be seen from the proof analyzed in the brief against Rose. In all of the experiments, nationals from countries occupied by Germany were among the victims.

Sievers defends himself primarily on the ground that since he was not a doctor, he was not in a position to appreciate the full significance of the experiments carried out, that is to say, that he did not know that the subjects were artificially infected with typhus. In view of the completely perjurious character of Sievers' testimony, this defense cannot be believed. In any event, in the face of Sievers' participation in the most reprehensible of crimes, he cannot be heard to say that he did not appreciate what was being done to the experimental subjects he furnished to Haagen. It was his duty to ascertain precisely what was to be done with them. The law

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does not permit that he blindly furnish human victims to anyone who cared to ask, and then, after a large number of them have been killed, to plead that he did not know what was to be done with them.

H. Polygal

The blood coagulant, Polygal, was developed under the auspices of the Ahnenerbe. Its efficacy was determined by experimental tests conducted on Dachau inmates by Rascher, department chief in the Ahnenerbe. Sievers, as Reich Manager of the Ahnenerbe, was responsible for administrative duties connected with Ahnenerbe research projects.

Although most of the evidence relates to the activities of Sievers in connection with the production of Polygal, it is clear that Sievers received reports from Rascher on Polygal research made before Polygal was perfected. Under date of 15 September 1943, Rascher submitted a report to Sievers entitled "Experiments with a new Hemostat 'Polygal 10'". Sievers was requested to take preliminary steps in connection with Polygal production. (NO-611, Pros. Ex. 239, R. 935).

Sievers testified that he was connected with Polygal only in the matter of its production and that in this connection his only activity was arranging for the transfer of Dachau inmates, who were trained in Polygal production, to Schlachters, which was a new place of production. (R. 5725).

Under date of 10 December 1943, Sievers was re-

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requested by Rascher to employ as an *Ahnenerbe* employee Rascher's inmate chemist, who was about to be released and leave Dachau. Rascher told Sievers that the successful handling of this personnel matter was essential to the continuance of the theoretical part of the Polygal research. Sievers, as Reich Manager of the *Ahnenerbe*, frequently handled personnel problems. (NO-758, Pros. Ex. 242, R. 962). Under date of 3 December 1943 Sievers was notified by Himmler's office that the plans for Polygal production were delayed due to the demand of Gebhardt that Polygal be tested at his Hohenlychen Institute before its production was decided upon definitely. At this time Sievers was also notified that Rascher might have an opportunity to experiment further with Polygal. (NO-612, Pros. Ex. 241, R. 961). Thus it is apparent that Sievers was connected with Polygal research before the time when its production, as distinguished from research, was the only factor.

Evidence in the Record proves that during the course of Polygal experiments Rascher inflicted bullet wounds on experimental subjects for the purpose of testing the effectiveness of Polygal under combat conditions. (NO-1424, Pros. Ex. 462, R. 4773).

In the latter part of 1943, Rascher and Dr. Haferkamp wrote a paper on the Polygal. This paper draws a clear distinction between experiments on human beings to test the effect of Polygal and clinical tests. It states that: "Before we tried the clinical use of the drug and had it probed, it was

tested on human beings by thorough experiments as to its influence on the period of clotting and bleeding". Later on the paper discusses clinical observations during operations. (NO-438, Pros. Ex. 240, R. 956). The experiments mentioned in this paper obviously are the ones during which inmates were shot. They were not so described in the paper because it was written for publication. Sievers testified that he was told by the Munich Police Department when Rascher was arrested in 1944, that Rascher shot persons in order to test Polygal. (R. 5726).

During the year 1944 Sievers was actively concerned with the Polygal matter. On 22 February 1944 he consulted with Rascher concerning a Polygal report to Gebhardt; on 31 March 1944 Sievers received from Melf the case histories of persons under Polygal treatment; on 14 April 1944 Sievers declared that the most important task at Dachau was the Polygal testing; on 24 August 1944 Sievers noted that a new blood coagulant had been developed and was to be tested. The 1944 Sievers Diary also shows Sievers' extensive activities concerning the production of Polygal. (35-6-15, Pros. Ex. 123, R. 382).

I. Skeleton Collection (Indictment Par. 7)

In response to a request by the defendant Rudolf Brandt, on 9 February 1942 Sievers submitted to him a report by Dr. Hirt of the University of Strassbourg on the desirability of securing a Jewish skeleton collection. (NO-085, Pros. Ex. 175, R. 695). In this

report, Hirt advocated outright murder of "Jewish Bolshevik Commissars" for the procurement of such a collections. He stated:

"By procuring the skulls of the Jewish Bolshevik Commissars, who personify a repulsive, yet characteristic subhumanity, we have the opportunity of obtaining tangible, scientific evidence. The actual obtaining and collecting of these skulls without difficulty could be best accomplished by a directive issued to the Wehrmacht in the future to immediately turn over alive all Jewish Bolshevik Commissars to the Field Police."

These units were to report to a special office which would send out specialists to have photographs and anthropological measurements taken and ascertain the origin, birthdate and other personal data of the victims. Hirt further stated:

"Following the subsequently induced death of the Jew, whose head must not be damaged, he will separate the head from the torso and will forward it to its point of destination in a preservative fluid within a well-sealed tin container especially made for this purpose. On this basis of the photos, the measurements and other data on the head and, finally, the skull itself, the comparative anatomical research, research on race membership (Rassenzugehoerigkeit), the pathological features of the skull form, the form and size of the brain and many other things can begin. In accordance with its scope and tasks, the new Strassbourg Reich University (Reichsuniversitaet Strassbourg) would be the most appropriate place for the collection of and research upon these skulls thus acquired." (Emphasis supplied).

On 27 February 1942, Brandt informed Sievers that Himmler would support Hirt's work and would place everything necessary at his disposal. Brandt requested Sievers to inform Hirt accordingly and to report again on Hirt's work. (KO-090, Pres. Ex. 176, R. 699).

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Hirt's murderous and inhuman plan was carried out in a way which differed but slightly from the suggestion made in his preliminary report. (NO-085, supra). The proof has shown that it was decided to preserve the whole skeletons of the victims rather than merely the skulls. On 2 November 1942 Sievers requested Brandt to make the necessary arrangements with the Reich Main Security Office for providing 150 Jewish inmates from Auschwitz to carry out this plan. (NO-086, Pros. Ex. 177, R. 699). On 6 November Brandt informed Adolf Eichmann, the Chief of Office IV-B-4 (Jewish Affairs) of the Reich Main Security Office to put everything at Hirt's disposal which was necessary for the completion of the skeleton collection. (NO-089, Pros. Ex. 179, R. 702).

From Siever's letter to Eichmann of 21 June 1943, it is apparent that SS Hauptsturmfuehrer Boger, a collaborator of the Ahnenerbe Society, carried out the preliminary work for the assembling of the skeleton collection in the Auschwitz Concentration Camp on 79 Jews, 30 Jewesses, 2 Poles, and 4 Asiatics. In this letter, Sievers stated that Boger had to interrupt his work because of the danger of infectious diseases in the camp. Sievers requested that the inmates on whom Boger had carried out this work be transferred to the Natzweiler Concentration Camp because further activities in Auschwitz were impossible due to the danger of infection. Special accommodation for the thirty women was to be provided in the Natzweiler Concentration Camp "for a short period".

(NO-087, Pros. Ex. 181, R. 702).

The statement of the camp commander of the Natzweiler Concentration Camp, SS Hauptsturmfuehrer Josef Kramer, reveals that approximately 80 inmates of the Auschwitz Concentration Camp, among them females, were transferred to the Natzweiler Concentration Camp and killed there by gas on the request of Hirt in the beginning of August 1943. A special gas chamber had been built for this purpose. The corpses of the victims were sent in three shipments to the Anatomical Institute of Hirt in the Strassbourg University. (NO-807, Pros. Ex. 185, R. 732). This evidence is corroborated by the testimony of the witness Henrypierre. He testified that in the beginning of August 1943, the principal autopsy technician of the Anatomical Institute, Bong, received the order from Hirt to prepare the tanks in the cellar of the Institute for approximately 120 corpses. In intervals of a few days, three shipments of corpses, 30 female, 30 male, and 26 male, arrived by truck from an unknown place. All of those victims were Jewish. These corpses were preserved in the cellar of the Anatomical Institute in the tanks prepared by Bong. (Henrypierre, R. 712-4). See also the affidavit of Wagner. (NO-881, Pros. Ex. 280, R. 1074). As proved by the Sievers Diary, Boger was ordered to prepare plaster casts of the victims. (3546-PS, Pros. Ex. 123, R. 382, entry for 2 February 1944).

Early in September 1944, when the Allied armies were threatening Strassbourg, Sievers approached the

defendant Brandt with the request for instructions as to what should be done with the Jewish bodies, which were still stored in the tanks in the cellar of the Anatomical Institute. He informed Brandt that Hirt would be able to "deflesh" the corpses and thus render them unrecognizable, but in this case part of the work would have been done in vain "and it would be a great scientific loss for this unique collection because human casts could not be made afterwards. The skeleton collection is not conspicuous. Viscera could be declared as remnants of corpses, apparently left in the Anatomical Institute by the French, and ordered to be cremated." Sievers requested a directive from Brandt whether the collection should be preserved, partly dissolved, or completely dissolved. (HO-088, Pros. Ex. 182, R. 704).

From the memorandum of SS Hauptsturmfuehrer Berg and his telephone conversation with Sievers on the 15th of October 1944, it is apparent that it was first decided to destroy the evidence of these brutal crimes, but with a temporary improvement in the military situation, this decision was rescinded. Sievers informed Berg on 21 October 1944 that, in compliance with the orders he had received previously, the dissolution of the collection had been completed. (HO-091, Pros. Ex. 183, R. 705). But such was not the case. Hirt had ordered Berg and his assistant, Loyer, to cut up the 86 corpses and have them cremated in the Strassbourg crematorium, but these two men alone were unable to carry out this enormous task. A number of corpses remained undissected and

were left in the tanks, together with partially dissected corpses, in order to create the impression that they were used for normal anatomical research. (Henrypierre, R. 715; NO-881, supra).

The pictures of these corpses and of the gas chambers in the Natzweiler Concentration Camp, where the victims of the Jewish skeleton collection were murdered, taken by the French authorities after the liberation of Strassbourg, tell the grim story of this mass murder more vividly than witnesses and documents ever could. (NO-483, Pres. Ex. 184, R. 724; NO-807, supra).

Sievers knew from the moment he received Hirt's report (NO-085, Pres. Ex. 175, R. 695), that mass murder was planned for the procurement of the skeleton collection. Nevertheless he collaborated in the project, sent an employee of the Ahnenerbe to make the preparatory selections in the Auschwitz Concentration Camp and provided for the transfer of the victims from Auschwitz to Natzweiler. He made arrangements that the collection be destroyed. His guilt and the guilt of the defendant Rudolf Brandt is much greater than that of the brutal and insensible Kramer, who personally gassed the Jews in Natzweiler. These crimes were engineered almost exclusively by the defendants Sievers and Rudolf Brandt, and Hirt. (See Sievers Diary for 1943, NO-338, Pres. Ex. 122, R. 379, entries for 10 Feb., 28 Apr., 21 and 22 May, 16 and 23 June).

III. CONCLUSION

Sievers' only answer to the horrible crimes in which he participated is that firstly he was a member of a resistance movement, and secondly that he acted pursuant to superior orders. Both defenses are without any merit whatever. As to superior orders, the proof does not show that Sievers committed these crimes pursuant to orders. He did so willfully and as a matter of "business routine". In any event the plea of superior orders should not be heard in mitigation from a man who has participated in crimes as reprehensible as those with which this Indictment is concerned. When one has been an active participant in the cold-blooded murder of 88 Jews, superior orders could not possibly be regarded as a mitigating factor.

The defense of having participated in a resistance movement is ridiculous and absurd. In the first place it is utterly untrue. One might tend to believe a statement that a high ranking officer in the SS perhaps joined an anti-Nazi clique in 1944, when it was realized by all who cared to look that Germany had lost the war. Thus, we have the 20 July attempt against Hitler. But the wretched Sievers has the temerity to claim that he was resisting as early as 1933 and continued his activities until the end of the war. Yet in these fourteen years, even to the present day, Sievers has not performed one overt act against the men who ran the system he now professes to have detested. He joined the Nazi party as early as 1929 and the SS in 1935. He stayed with Himmler's gang until the

last days of the collapse. Not by one word or deed can he give proof to his absurd contention. Even since the end of the war, Silvers has had remarkable opportunities to prove that at least now he was willing to resist the criminals who ran the Nazi Government and participated in its manifold crimes, but he did not come to Nurnberg in 1946 to give evidence of the horrible crimes of which he had first-hand knowledge. He came to testify in defense of the SS. During his testimony before the International Military Tribunal he consistently denied any knowledge of or connection with crimes committed by the Ahnenerbe or the SS. He was in that trial proved to be the murderer and perjurer that he really is, but this was left to cross-examination by the Prosecution. Nor did he show any signs of resistance in this trial except to the many crimes with which he is charged. He occupied a key position in the criminal conspiracy, yet not one new fact did he reveal to this Tribunal, although specifically asked on several occasions to tell all he knew. To the contrary, he has supplied many of the defendants in the dock with evidence for their defense. He is of the opinion that there is not a guilty man in the dock, and least of all himself. This last desperate defense of Silvers, who has been proved perhaps more than any man in the dock to have been an unmitigated liar and a cold-blooded murderer, is disproved by a letter from his own hand. The ghastly evidence of his crimes in connection with the Jewish skeleton collection had been found when

the Allies overran Strassbourg. In that connection he wrote on 20 January 1945 to Hirt as follows:

"Your report on Strassbourg had duly come to hand. Many thanks for it. I shall be back in Waischenfeld at the end of the month and if no further notice will have arrived there in the meantime, I shall see to it that all letters mailed to you recently shall be dispatched once again.

"Paris as well as London is taking quite an active interest in the Anatomie Institute of Strassbourg and regret that you have not been seized. In the meantime you will probably have received, or shall in the very near future, an inquiry of the Foreign Office via the Ministry of Ecclesiastical Affairs and Education referring to this. We may be very glad that all data and papers on that work have been destroyed in time. The enemy could not offer any concrete statements so far. "I have already written to you, I should be very glad if you would make a short trip out of your way, to Waischenfeld, at the opportunity of one of your journeys to Muerzburg." (NO-975, Pros. Ex. 479, R. 5837). (Emphasis supplied).

Thus we have an alleged resistance worker gleeful over the fact that "all data and papers on that work have been destroyed in time". Any real resistance worker would have preserved with great care all the papers and evidence concerning the crimes of the Nazis, and would have met the Allied armies with open arms and presented them with his proof.

But even if one assumed the truth of every lie which Sievers has testified to, his contention is no defense whatever. It is not the law that a resistance worker can commit no crime and, least of all, against the very people he is supposed to be protecting. It is not the law that an under-cover agent, even an F. B. I. agent, can join a gang of murderers, lay the plans with them, execute the killings, share the loot,

and go his merry way. Many are the police officers who have been convicted for confederating with criminals and taking part in crimes.

The Prosecution submits that the evidence proves that Sievers was a principal in, accessory to, ordered, abetted, took a consenting part in, was connected with plans and enterprises involving, and was a member of an organization or group connected with, the commission of medical experimentation on human subjects without their consent, in the course of which experiments, murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts were committed, and the murder of no less than 86 Jews for a skeleton collection. His guilt has been established under Counts I, II, III and IV of the Indictment.

Case 1
Prosecution

MILITÄRGERICHTSHOF NR. I

FALL NR. 1

VEREINIGTE STAATEN VON AMERIKA GEGEN KARL BRANDT U.A.

SCHLUSS-LAEDoyer FUER
DIE VEREINIGTEN STAATEN VON AMERIKA

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Chief of Counsel for War Crimes

Nuernberg,
14 Juli 1947



EINLEITUNG

Am heutigen Tage beginnt die Schlusswoche dieses Prozesses, der am 9. Dezember 1946 begann. Heute haben wir 133 Prozessstage hinter uns, von denen die Anklage etwa 33 zum Vortrag ihres Falles und zur Widerlegung benutzte. 32 Zeugen machten mündliche Aussagen fuer die Anklage, und 30 Zeugen, ausser den 23 Angeklagten, fuer die Verteidigung. Die Anklage unterbreitete 570 Beweisstücke, die in ihrer Mehrheit deutsche, von den alliierten Armeen erbeutete Dokumente waren. Die Gesamtzahl der Beweisstücke der Verteidigung, die hauptsächlich aus eidestattlichen Erklärungen bestand, betrug 855. Nachdem das Urteil verlesen sein wird, wird das Protokoll ueber 12.000 Seiten umfassen.

Wenn man den Verlauf dieses Verfahrens ueberblickt, ist es angebracht auf die Fairness hinzuweisen, mit welcher der Prozess gefuehrt worden ist. Was immer die Angeklagten fuer sich vorbringen konnten, durften sie sagen. Unermuedlich war der Gerichtshof in seinem Bemuehen, diejenigen Zeugen, Dokumente und Hilfsmittel herbeizuschaffen, die von der Verteidigung erbeten wurden. Um Justice Jackson zu zitieren: "Ihnen wurde ein solches Gerichtsverfahren gewahrt, wie sie es in den Tagen ihres Prunks und ihrer Macht niemanden gewahrten". 1) Verschiedene der Angeklagten werden diese Tatsache besonders voll und ganz zu schaeitzen wissen. Dem Angeklagten Karl Brandt zum Beispiel ist die Nazi-Justiz nicht unbekannt. Ihm wurde im April 1945 als Ergebnis von Schwierigkeiten mit Hitler und Dornmann ein Hochverratsprozess von wenigen Stunden gemacht. Die Verhandlung fand vor einem SS-Obergruppenfuehrer statt und nur die Verwirrung in den letzten Tagen des Krieges sparte Brandt, der zum Tode verurteilt wurde, fuer dieses

1) I.M.T. Protokoll,
Seite 14333.

Zusammentreffen auf. Vor diesem Gerichtshof hat Brandt zugestanden, dass mit jenem Prozess etwas nicht in Ordnung war, da, wie er sich ausdrückte, "das Urteil im voraus festgelegt worden war". 2)

Die Pflicht, den Angeklagten ein gerechtes Verfahren zu gewahren, ist erfüllt worden, gleichermassen jene, die Anklage, gegenüber all den Völkern und Rassen, auf denen die Plage dieser Verbrechen lag. Das Verbrechen, welches diese Angeklagten im Namen der medizinischen Wissenschaft begangen haben, ist durch klaren und uoberwältigenden Beweis, der unauslöschlich im Protokoll dieses Verfahrens eingetragen ist, erwiesen. Niemand kann bezweifeln, dass diese unglaublichen Geschehnisse Wahrheit und nicht Dichtung waren. Die Zeit, mit seinem Urteil zurückzuhalten, ist nun vorbei. Die Stunde zur Entscheidung ist gekommen.

2) Protokoll, Seite 2622.

(Seite 2 des Originals)

Das Gesetz fuer diesen Prozess

Bevor ich daran gehe, den Fall der Anklage zu umreissen, mag es vielleicht wuensenswert erscheinen, gewisse Rechtsfragen vorwegzunehmen, welche zweifellos in Bezug auf Kriegsverbrechen und Verbrechen gegen die Menschlichkeit, wie sie im Artikel II des Kontrollratgesetzes Nr. 10 definiert sind, aufgeworfen worden. Das Gesetz Nr. 10 ist natuerlich das fuer diesen Prozess massgebende Gesetz und seine Bestimmungen sind fuer alle an diesem Verfahren Beteiligten massgebend. Dieser Gerichtshof ist, wie wir ergebenst unterstellen, durch die Begriffsbestimmungen des Gesetzes Nr. 10 gebunden, genau so wie der Internationale Militaergerichtshof durch die des Londoner Statuts gebunden war. Im Urteil des I.M.T. wurde festgestellt:

"Die Zuständigkeit dieses Gerichts ist im Abkommen und im Statut definiert und die der Zuständigkeit des Gerichtshofes unterliegenden Verbrechen, die individuelle Verantwortlichkeit begründen sollten, werden in Artikel 6 aufgeführt. Das Recht des Statuts ist entscheidend, und für den Gerichtshof bindend

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"Der Gerichtshof ist natürlich durch das Statut hinsichtlich dessen Definition von Kriegsverbrechen und von Verbrechen gegen die Menschlichkeit gebunden." 1)

Wenn ich kurz die Auffassung der Anklage in Bezug auf einige der gesetzlichen Grundsätze umreisse, welche den Kriegsverbrechen und den Verbrechen gegen die Menschlichkeit zu Grunde liegen, dann werde ich mich, mit Erlaubnis des Hohen Gerichtes, an einige der Feststellungen in der Eröffnungsrede der Anklage im Falle gegen Friedrich Flick und Gen. halten, der zur Zeit vor dem Gerichtshof Nr. IV anhängig ist. Dort hat General Taylor gesagt:

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- 1) Verfahren gegen die Hauptkriegsverbrecher, Band 1, Seite 218, 253.

(Seite 3 des Originals)

"Die Definitionen von Verbrechen in Gesetz Nr. 10 und die entsprechenden Definitionen im Londoner Abkommen und Statut vom 8. August 1945 sind Darstellungen und Erklärungen dessen, wie das Völkerrecht zu jenem Zeitpunkt und vor jenem Zeitpunkt war. Sie schaffen keine "neuen" Verbrechen; Artikel 2 des Gesetzes Nr. 10 stellt fest, dass gewisse Handlungen Verbrechen "darstellen". Internationales Recht entspricht nicht einer Gesetzgebung; es ist ein "herkömmliches" oder "allgemeines" Recht, welches sich aus den "unter den zivilisierten Nationen festgelegten Gebräuchen" und dem "Diktat des öffentlichen Gewissens" entwickelt. 1) In ihrer Weiterentwicklung werden diese Gewohnheiten und Gebräuche zur Grundlage und zum Anlass für Handlungen und Verhalten, und von Zeit zu Zeit werden sie in Verträgen, Abkommen, Erklärungen und wissenschaftlichen Abhandlungen anerkannt.

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- 1) Haager Konvention Nr. 4 vom 18. Oktober 1907.

"Die Zuständigkeit dieses Gerichts ist im Abkommen und im Statut definiert und die der Zuständigkeit des Gerichtshofes unterliegenden Verbrechen, die individuelle Verantwortlichkeit begründen sollten, werden in Artikel 6 aufgeführt. Das Recht des Statuts ist entscheidend, und für den Gerichtshof bindend

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- 1) Haager Konvention Nr. 4 vom 18. Oktober 1907.

Das Londoner Statut und das Gesetz Nr. 10 sind wichtige Teile in diesem Strom von Gesetzen und Erklärungen, durch den das Völkerrecht wächst. Sie sind Marksteine am Wege, von denen man sowohl nach voraus und nach rückwärts blicken kann, sie sind aber nicht rückwirkend. Mr. Henry L. Stimson hat diese Prinzipien kürzlich mit bewundernswerter Klarheit zum Ausdruck gebracht; 2)

'Das Völkerrecht ist nicht eine Sammlung von Zwangsnormen oder Gesetzen; es ist der schrittweise Ausdruck des Moralgesetzes der zivilisierten Welt, geboren von Fall zu Fall. Als solches deckt es sich genau mit dem Common Law angelsächsischer Tradition. Die Rechtsprinzipien von Nürnberg können wir nur verstehen, wenn wir sie als das betrachten, was sie darstellen - ein wichtiger neuer Fall in den Rechtsbüchern des Völkerrechts und nicht die formale Anwendung von gesetztem Recht.'

Gesetz Nr. 10 ist all dies und noch mehr. Es ist ein Akt der Gesetzgebung der Militärrückbildung und daher ein Teil der für Deutschland und innerhalb Deutschlands geltenden Rechtsordnung. Eine der Schwächen der Diktatur besteht darin, dass sie im Falle der katastrophalen und endgültigen militärischen Niederlage sich gewöhnlich in Nichts aufgelöst und die Opfer ihrer Tyrannei inmitten eines politischen Chaos führerlos zurücklässt. Das Dritte Reich hatte unbarmherzig jeden Mann und jede Frau in Deutschland zur Strecke gebracht, die es versuchten, politischen Gedankengängen Ausdruck zu geben oder eine politische Führung außerhalb der bestialischen Nazi-Weltanschauung zu entwickeln. Beim Zusammenbruch des Dritten Reiches stürzte Deutschland politisch in einen luftleeren Raum. Die Erklärung der alliierten Mächte vom 5. Juni 1945 gab "die Übernahme der höchsten Vollzugsgewalt" in Deutschland bekannt, "zur Aufrechterhaltung der Ordnung" und "zur Verwaltung des Landes", und bestimmte;

2) Der Nürnberger Prozess: Ein Markstein des Rechts.
Henry L. Stimson, veröffentlicht in "Foreign Affairs", Januar 1947.

(Seite 4 des Originals)

'Es gibt keine Zentralregierung oder Autorität in Deutschland, die fähig wäre, die Verantwortung für die Aufrechterhaltung der Ordnung, für die Verwaltung des Landes oder für die Befolgung der Forderungen der Siegermächte zu übernehmen.'

Im Verfolge dieser Erklärung wurde der Kontrollrat als Träger der Zentralgewalt in Deutschland geschaffen. Gesetz Nr. 10 ist ein gesetzgebender Akt dieser Körperschaft und ist deutsches Recht, obgleich seine Bestimmungen dem Völkerrecht entstammen und dieses verkörpern. Die Nürnberger Militärgerichte sind unter der Vollmacht von Gesetz Nr. 10 1) geschaffen worden, und sie sprechen nicht nur Recht nach dem Völkerrecht, wie in Gesetz Nr. 10 erwähnt, sondern nach dem in Gesetz Nr. 10 verkündeten deutschen Recht. Die Gerichtshöfe erzwingen, kurz gesagt, sowohl Völkerrecht wie auch deutsches Recht, und bei Auslegung und Anwendung von Gesetz Nr. 10 müssen sie Gesetz Nr. 10 nicht bloss als Ausdruck des Völkerrechts, sondern als gesetzgebenden Akt der Besatzungsmächte betrachten zur Rechtspflege und zur Rechtsprechung in Deutschland. Die Erlassung von Gesetz Nr. 10 geschah in Ausübung der gesetzgebenden Gewalt der vier Mächte, vor denen das Dritte Reich die Waffen streckte und - wie das vom Internationalen Militärgerichtshof ausgesprochen wurde; 2)

'..... das unbestrittene Recht dieser Mächte zur Gesetzgebung für die Besatzungsgebiete wurde von der zivilisierten Welt anerkannt.' "

Kriegsverbrechen werden im Gesetz Nr. 10 als Greueltaten oder Vorgehen definiert, welche die Gesetze oder Gebräuche des Krieges verletzen. Diese Begriffsbestimmung beruht vor allem auf dem Haager Abkommen von 1907 und der Genfer Konvention von 1929, welche das zeitgenössische Völkerrecht in Bezug auf die Landkriegsführung, die Behandlung von Kriegsgefangenen, die Rechte und Pflichten einer kriegsführenden Macht bei der Besetzung des Gebietes

- 1) Kontrollratgesetz Nr. 10, Artikel III, Abs. 1 (d) und 2; Anordnung der Militärregierung Nr. 7, Artikel II.
- 2) Verfahren gegen die Hauptkriegsverbrecher; Band I, Seite 218 des Urteils des Internationalen Militärgerichtshofes.

eines feindlichen Staates und andere Gegenstände verkuenden.
Die Gesetze und die Gebrauche des Krieges beziehen sich
auf Kriegfuhrung, jedoch nicht auf innere Angelegenhei-
ten eines Volkes oder die Beziehungen zwischen Alliierten.
Verbrechen, welche Deutsche gegen andere Deutsche begangen
haben, sind keine "Kriegsverbrechen", noch sind es Handlun-
gen von

(Seite 5 des Originals)

Deutschen gegen Ungarn und Rumänen. Die Kriegsverbrechen,
welche zum Gegenstand der Anklageschrift gemacht worden
sind, ereigneten sich alle nach dem 1. September 1939, und
es ist deshalb nicht notwendig, die etwas enge Beschrän-
kung von Kriegsverbrechen durch den Internationalen Mil-
taergerichtshof auf die nach Kriegsausbruch begangenen
Handlungen zu beruecksichtigen. Man koennte behaupten,
dass die Besetzung von Oesterreich und des Sudetenlandes
im Jahre 1938, von Buehmen und Maaehen im Maerz 1939 ge-
nuoenend einem Kriegszustande gleichkaeme, um die Gesetze
des Krieges in wirksamkeit treten zu lassen - aber solche
Fragen sind fuer die Zwecke des vorliegenden Falles akado-
misch.

Im Falle einiger Angeklagten jedoch, insbesondere
trifft dies auf Gebhardt, Fischer und Oberhauser im Zusam-
menhang mit den Sulfonamid-Experimenten zu, kann erwartet
werden, dass behauptet wird, die Verbrechen gegen Polen
und vielleicht auch Tschechen seien nicht Kriegsverbrechen
im Sinne des Kontrollratgesetzes Nr. 10. Diese Behauptung
wird auf die Unterstellung gestuetzt, dass Deutschland in
vielen der waehrend des Krieges besetzten Gebiete nicht
mehr durch die Regeln ueber die Landkriegsfuehrung gebunden

gewesen sei, weil Deutschland diese Laender voellig unterworfen und sie dem Deutschen Reich einverleibt habe, und deswegen haette Deutschland das Recht gehabt, mit den besetzten Laendern zu verfahren, als ob sie ein Teil Deutschlands waeren. So hat die Verteidigung den deutsch-russischen Grenz- und Freundschaftsvertrag vom 30. Dezember 1939 sowie auch gewisse deutsche Verordnungen, betr. die Verwaltung des besetzten Polens als Beweisstuecke vorgelegt. ¹⁾ Ohne uns damit aufzuhalten, zu argumentieren, dass

1) Gobhardt Beweisstuecke 13, 14 und 15.

(Seite 6 des Originals)

jener Teil Polens, der vom sogenannten Generalgouvernement verwaltet wurde, aus welchem die fuer die Sulfonamid-Experimente verwendeten polnischen Versuchspersonen kamen, nie dem Reich einverleibt wurde, duerfte es genuegen darauf hinzuweisen, dass der Internationale Militaergerichtshof dieses Argument erledigt hat. In seinem Urteil wurde das Folgende festgestellt:

"Der Ansicht des Gerichtshofes nach ist es im vorliegenden Falle unnoetig zu entscheiden, ob diese Lehre der Unterwerfung, die von der militaerischen Eroberung abhaengt, irgendwo anwendbar ist, wo die Unterwerfung das Ergebnis des Verbrechens des Angriffskrieges ist. Nie hat man diese Lehre fuer anwendbar gehalten, so lange noch ein Heer im Felde stand, das den Versuch machte, die besetzten Gebiete fuer ihren wahren Eigentuerer zurueckzugewinnen, und im vorliegenden Falle konnte deshalb die Lehre nicht angewendet werden auf irgendwelche Gebiete, die nach dem 1. September 1939 besetzt wurden." ¹⁾

Auf die tschechischen Staatsangehoerigen trifft das Argument auch nicht zu. Der Internationale Militaergerichtshof sagte:

1) Verfahren gegen die Hauptkriegsverbrecher, Band I, Seite 254.

"In Bezug auf die Kriegsverbrechen, die in
Bohmen und Mähren begangen wurden, genuegt
der Hinweis, dass diese Gebiete nie dem
Reiche einverleibt wurden, sondern dass nur
ein Protektorat ueber sie geschaffen wurde." 1)

- 1) Verfahren gegen die Hauptkriegsverbrecher,
Band I, Seite 254.

(Seite 7 des Originals)

Im Zusammenhang mit der Beschuldigung von Verbrechen
gegen die Menschlichkeit wird ebenfalls angenommen, dass die
Verteidigung argumentieren wird, dass Verbrechen, die von
Deutschen an anderen Deutschen begangen wurden, nicht Ver-
brechen gegen die Menschlichkeit wie in Artikel II des Kon-
trollratgesetzes Nr. 10 definiert, darstellen koennten, und
dass sie deshalb nicht in die Zustaeendigkeit dieses Gerichts-
hofes fallen. Das Anklagebeweismaterial der Anklagebehoerde
hat ergeben, dass in praktisch allen Versuchen Kriegsgefan-
gene oder Zivilisten aus von den Deutschen besetzten Gebie-
ten als Versuchspersonen verwendet wurden. Dieser Tatsache
ist un widersprochen, mit Ausnahme von allgemeinen Feststel-
lungen der Angeklagten, dass Himmler oder eine nicht nachher
bezeichnete Person ihnen gesagt habe, dass die Versuchspor-
sonen alle deutsche Verbrecher seien, oder dass sie alle
fliessend deutsch gesprochen haetten. So stellen die meisten
hier zur Frage stehenden Handlungen Kriegsverbrechen dar und
damit auch gleichzeitig Verbrechen gegen die Menschlichkeit.
Zweifelloes ist kein Beweis erbracht worden, dass je ein Be-
fehl erteilt wurde, der die Versuchspersonen auf deutsche
Verbrecher beschraenkt, im Gegensatz zu nicht-deutschen
Staatsangehoerigen. Wenn in dem einen oder anderen unwesent-
lichen Fall das Beweismaterial nicht die genaue Nationalitaet
der ungluecklichen Opfer aufzeigte, oder vielleicht sogar

zeigte, dass es Deutsche waren, dann duerfen wir sicher sein, dass es sich nur um Zufaelle handelte.

Wie dem auch sei, die Anklage hat nicht die Absicht, einen Angriff gegen die Rechtszustaeendigkeit des Gerichtshofes unbeachtet zu lassen, obschon er von geringer Bedeutung im vorliegenden Falle ist. Eines sollte von Anfang an ganz klar gemacht werden; Wir befassen uns hier nicht mit einer Frage der Zustaeendigkeit im Bezug auf Verbrechen, die vor dem 1. September 1939 entweder an Deutschen oder anderen begangen wurden. Diese Frage ist aufgeworfen worden und steht einem anderen Verfahren zur Debatte, das augenblicklich verhandelt wird, aber die Verbrechen im vorliegenden Falle ereigneten sich alle nach Kriegsbeginn.

(Seite 8 des Originals)

Weiterhin befassen wir uns hier nicht mit der Frage, ob Verbrechen gegen die Menschlichkeit "in Ausfuhrung oder im Zusammenhang mit einem Verbrechen innerhalb der Zustaeendigkeit dieses Gerichtshofes begangen werden mussten." Der Internationale Militaergerichtshof hat sein Statut dahingehend ausgelegt, dass Verbrechen gegen die Menschlichkeit in Ausfuhrung von oder im Zusammenhang mit dem Verbrechen des Angriffskrieges begangen sein mussten. Gleichviel, was auch immer der Wert dieser Ansicht sein mag, die Worte im Statut des Internationalen Militaergerichtshofes, die zu dieser Auslegung fuhrten, sind nicht in der Begriffsbestimmung der Verbrechen gegen die Menschlichkeit im Kontrollratgesetz Nr. 10 enthalten. Es kann kein Zweifel darueber bestehen, dass Verbrechen gegen die Menschlichkeit, wie sie im Gesetz Nr. 10 definiert sind, auf einer unabhaeangigen Grundlage stehen und Verbrechen per se sind. Auf jeden Fall waren die Verbrechen, mit welchen sich der vor-

liegende Fall befasst, tatsächlich alle "in Ausführung oder im Zusammenhang mit dem Angriffskrieg begangen worden". Das trifft nicht nur auf die verurteilten Versuche zu, sondern auch auf das Euthanasie-Programm, in dessen Verlauf eine grosse Anzahl von Nichtdeutschen getötet wurden. Das Urteil des Internationalen Militärgerichtshofes hat das ausdrücklich festgestellt. 1)

Es ergibt sich also klar, dass die einzige Frage, welche in diesem Fall im Bezug auf die Verbrechen gegen die Menschlichkeit aufgeworfen wird, ist, ob dieser Gerichtshof zuständig ist fuer Verbrechen, die von Deutschen gegen Deutsche begangen wurden. Umfasst die Definition der Verbrechen gegen die Menschlichkeit im Kontrollratsgesetz Nr. 10 auch Verbrechen, die Deutsche gegen Deutsche begangen haben, wie die, mit welchen sich der vorliegende Fall befasst? Die Bestimmungen des Gesetzes Nr. 10 sind fuer den Gerichtshof bindend als das in diesem Falle anwendbare Gesetz. 2) Die Bestimmungen des Absatzes 1 (c)

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- 1) Verfahren gegen die Hauptkriegsverbrecher, Seiten 231, 247, 252, 254, 301.
 - 2) Verfahren gegen die Hauptkriegsverbrecher, Seiten 174 und 253.

(Seite 9 des Originals)

des Artikels II sind klar und unmissverstaendlich. Dort werden Verbrechen gegen die Menschlichkeit folgendermassen definiert;

"Gewalttaten und Vorgehen einschliesslich der folgenden, den obigen Tatbestand jedoch nicht erschöpfenden Beispiele: Mord, Ausrottung, Versklavung, Zwangsverschleppung, Freiheitsberaubung, Folterung, Vergewaltigung oder andere an der Zivilbevölkerung begangene unmenschliche Handlungen; Verfolgung aus politischen, rassischen oder religiösen Gründen, ohne Rücksicht darauf, ob sie das nationale Recht des Landes, in welchem die Handlung begangen worden ist, verletzen."

Die Worte "an der Zivilbevölkerung" können keinesfalls derart ausgelegt werden, dass sie deutsche Zivilisten ausschliessen wurden. Wenn man annehmen sollte, dass Deutsche ausgeschlossen wären, dann hat es wenig oder gar keinen Sinn, dem Begriff des Verbrechens gegen die Menschlichkeit Gewicht zu geben. Kriegsverbrechen umfassen alle in der Definition der Verbrechen gegen die Menschlichkeit aufgeführten Taten, wenn sie gegen Kriegsgefangene und die Zivilbevölkerung besetzter Gebiete begangen wurden. Die einzigen uebrigbleibenden, erwahnenswerten Gruppen sind Deutsche und die Angehoerigen der Vasallenstaaten, wie Ungarn und Rumonien. Es ist gerade eine der Absichten der Begriffsbestimmung des Verbrechens gegen die Menschlichkeit, wie es nicht nur im Gesetz Nr. 10 sondern schon lange im Voelkerrecht anerkannt ist, die systematische Begehung von Greuelthaten und strafbaren Handlungen eines Staates gegen sein eigenes Volk zu erfassen. Der Schlusssatz der Definition des Verbrechens gegen die Menschlichkeit, der eine alternative Fassung hat, macht es voellig eindeutig, dass Verbrechen, welche Deutsche gegen Deutsche begangen haben, in die Zustaendigkeit dieses Gerichtshofes fallen. Er lautet: "Verfolgung aus politischen, rassischen oder religiosen Gruenden, ohne Ruucksicht darauf, ob sie das nationale Recht des Landes, in welchem die Handlung begangen worden ist, verletzen". Dieser Hinweis auf das "nationale Recht des Landes" kann bloss diskriminierende und bedrueckende Gesetzgebung gegen eigene Staatsangehoerige bedeuten, wie zum Beispiel die gegen die deutschen Juden gerichteten Kuernberger Gesetze.

Der Angelegenheit wird vollends jeder Zweifel genommen durch den Artikel III des Gesetzes Nr. 10, welcher jeder Besatzungsmacht das Recht gibt,

Leute zu verhaften, die der Begabung von Verbrechen verdächtig sind, die im Gesetz Nr. 10 definiert sind, und sie zur Verhandlung "vor ein dafür geeignetes Gericht" zu bringen. Absatz 1 (d) des Artikels III sieht weiterhin vor:

"Für die Aburteilung von Verbrechen, die deutsche Staatsbürger oder Staatsangehörige gegen andere deutsche Staatsbürger oder gegen Staatenlose begangen haben, können die Besatzungsbehörden deutsche Gerichte für zuständig erklären."

Dies ist eine ausdrückliche Bestätigung dafür, dass Taten, welche Deutsche gegen Deutsche begangen haben, als Verbrechen unter dem Gesetz Nr. 10 im Einklang mit den darin enthaltenen Definitionen, soweit es die Besatzungsmacht für angebracht erachtet, zu bestrafen sind. Dies bezieht sich besonders auf Verbrechen gegen die Menschlichkeit, da die Anwendbarkeit der Verbrechen gegen den Frieden und der Kriegsverbrechen, obschon möglich, doch fast völlig theoretisch ist. Wenn die Besatzungsmacht es unterlässt, deutschen Gerichtshöfen die Vollmacht zu erteilen, solche Verbrechen, die von Deutschen gegen andere Deutsche begangen wurden, abzuurteilen (und in der amerikanischen Besatzungszone wurde eine solche Vollmacht nicht erteilt), dann werden diese Fälle nur vor nichtdeutschen Gerichtshöfen, wie diesem Militärgericht, verhandelt.

Was würde sich daraus ergeben, wenn man die Ansicht vertreten wollte, dass Verbrechen, welche Deutsche gegen Deutsche begangen haben, unter keinen Umständen unter die Zuständigkeit dieses Gerichtshofes fallen? Sollte dieser Gerichtshof den Beweis ignorieren, dass zehntausende von Deutschen auf Grund eines Geheimerrlasses ausgerottet wurden, weil eine Gruppe von Verbrechern sie als "nutzlose Esser"

und eine unnötige Last betrachteten, oder dass deutsche Gefangene zu Tausenden in Konzentrationslagern hingerichtet und misshandelt wurden, zum Teil mittels medizinischer Experimente? Im Falle gegen Milch hat der Militärgerichtshof II entschieden, dass Verbrechen gegen ungarische und rumänische Staatsangehörige Verbrechen gegen die Menschlichkeit waren. Es wäre sicherlich sinnlos zu sagen, dass eine Zuständigkeit für Verbrechen bestünde, welche Deutsche gegen Ungarn begangen haben, aber nicht für die, welche Deutsche gegen Deutsche begangen haben.

(Seite 11 des Originals)

Das Urteil des Internationalen Militaergerichtshofes zeigt eine klare Anerkennung seiner Zuständigkeit fuer Verbrechen, begangen von Deutschen gegen Deutsche. Nach einem Ueberblick ueber zahlreiche unmenschliche Handlungen im Zusammenhang mit Kriegsverbrechen und Verbrechen gegen die Menschlichkeit schliesst das Gericht mit folgenden Worten:

"....Seit Anfang des Krieges im Jahre 1939 sind Kriegsverbrechen in einem ungeheuren Ausmass begangen worden, die ebenfalls Verbrechen gegen die Menschlichkeit waren; und soweit diese unmenschlichen Handlungen, wie sie in der Anklageschrift zur Last gelegt werden und nach Kriegsausbruch begangen wurden, nicht als Kriegsverbrechen anzusehen sind, so sind sie doch im Verfolg und in Verbindung mit dem Angriffskrieg begangen worden, und waren ~~demgemäss~~ Verbrechen gegen die Menschlichkeit." ¹⁾

Da nun Kriegsverbrechen notwendigerweise auch Verbrechen gegen die Menschlichkeit sind, so kann eine weitergehende Auslegung der letzteren sich nur auf solche Verbrechen beziehen, die nicht unter die ersteren fallen, nemlich Verbrechen gegen Deutsche und Angehoerige anderer Laender, die nicht von den Deutschen besetzt waren. Weiterhin behauptete die Anklagevertretung in jenem Falle, dass die unmenschliche Behandlung der Juden und politischen Gegner innerhalb Deutschlands vor dem Kriege Verbrechen gegen die Menschlichkeit darstellten. Der Gerichtshof sagt in diesem Zusammenhang:

"Bezuglich der Verbrechen gegen die Menschlichkeit besteht ueberhaupt kein Zweifel daran, dass politische Gegner in Deutschland schon vor dem Kriege ermordet und dass viele von ihnen unter furchtbaren und grausamen Bedingungen in Konzentrationslagern festgehalten worden sind. Die Schreckenspolitik ist wahrlich in einem ungeheuren Ausmass durchgefuehrt worden und war in vielen Faellen systematisch organisiert. Die Politik der Verfolgung, Unterdrueckung und Ermordung deutscher Zivilpersonen vor dem Kriege 1939, die der Regierungsfeindlichkeit verdachtig waren, ist aufs

(Seite 12 des Originals)

ruecksichtslosste durchgeführt worden. Die Verfolgung der Juden während derselben Zeit ist ueber jden Zweifel festgestellt.¹⁾

Der Gerichtshof spricht hier ausschliesslich von Verbrechen Deutscher gegen Deutsche. Er stellte fest, dass solche Handlungen im Sinne des Statuts keine Verbrechen gegen die Menschlichkeit bedeuteten, nicht weil sie Verbrechen gegen Deutsche waren, sondern weil sie nicht in der Durchführung und in Verbindung mit dem Angriffskrieg begangen worden sind. Tatsächlich aber stellte der Gerichtshof dann weiter fest, dass diese selben Handlungen Verbrechen gegen die Menschlichkeit waren, wenn sie nach Kriegsausbruch begangen worden sind. Zwischen der Ermordung von deutschen Juden und polnischen oder russischen Juden wurde kein Unterschied gemacht. Ebensowenig wurde ein Unterschied gemacht zwischen verbrecherischen medizinischen Experimenten an deutschen oder nicht-deutschen Konzentrationslagerhäftlingen oder der Ermordung deutscher oder nicht-deutscher Zivilpersonen im Zuge des Euthanasieprogramms. Alles dies betrachtete der Gerichtshof als Kriegsverbrechen bzw. Verbrechen gegen die Menschlichkeit.

1) Verfahren gegen die Hauptkriegsverbrecher S. 254.

(Seite 13 des Originals)

DIE THEORIE DES PROZESSES

Was ist den Angeklagten in der Anklageschrift zur Last gelegt? Was ist das Wesen dieser Verbrechen, fuer die sie vor Gericht stehen? Im Anklagepunkt I sind saemtliche Angeklagten beschuldigt der Teilnahme an einem gemeinsamen Plan oder einer Verschwörung, die die Vornahme verbrecherischer medizinischer Experimente an lebenden Menschen ohne deren Zustimmung zum Gegenstand hatten und die Ermordungen, Grausamkeiten und andere unmenschliche Handlungen zur Folge hatten. Der Gerichtshof hat bereits eine Erörterung der Frage der Zuständigkeit, die Anklage der Verschwörung zu erheben, angehört, und ich werde mich daher weiter unten auf ein paar Bemerkungen ueber die gesetzlichen Vorschriften hinsichtlich der Verschwörung an sich, die Formen der Teilnahme daran, wie sie in Absatz 2 des Artikels IV des Gesetzes No. 10 niedergelegt sind, sowie die Anwendbarkeit von Bildern auf den Tatbestand in diesem Prozess, beschränken.

Unter den Anklagepunkten II und III (Kriegsverbrechen, bzw. Verbrechen gegen die Menschlichkeit) stehen einige der Angeklagten unter der Anschuldigung der Teilnahme an Ermordung von Menschen im Zuge des Euthanasieprogrammes, der Ermordung und Misshandlung tuberkulöser Polen und der Ermordung von 112 Juden fuer eine Skelettsammlung. Nach Ziffer 6 und 11 derselben Anklagepunkte sind alle Angeklagten der Teilnahme an verbrecherischen Versuchen an lebenden Menschen ohne deren Zustimmung, die Morde, Grausamkeiten und andere unmenschliche Handlungen zur Folge hatten

(Seite 13 des Originals, Forts.)

beschuldigt. Es muss betont werden, worauf auch die Anklagevertretung in diesem Prozess verschiedentlich hingewiesen hat, - dass die Grundidee von Ziffer 6 und 11 der Anklageschrift die Teilnahme an verbrecherischen Versuchen ist, was immer diese Versuche auch gewesen sein moegen. Einzelheiten ueber gewisse Versuche sind in der Anklageschrift aufgefuehrt, und einige der Angeklagten wurden namentlich angefuehrt als Personen, die sich an ihnen besonders betaetigt haben oder verantwortlich hierfuer waren. Dies beschraenkt jedoch die Anklagevertretung nun keineswegs darin, die grundsatzlichen Anschuldigungen durch jedwedes Beweismaterial in den Akten zu belogen. Es bedeutet eine durchaus irrige Auffassung von der Anklageschrift, sie so anzusehen, als ob sie diesem oder jenem Angeklagten die Teilnahme an diesem oder jenem Experiment zur Last legen wollen. Dies fuehrt dazu, den Beweis der die Beschuldigung stuetzen soll mit der Beschuldigung selbst zu verwechseln.

Ferner duerfen die gegen einen beliebigen Angeklagten vorliegenden Beweise nicht auf die Weise untersucht werden, dass man sie in Teile zerlegt und die einzelnen Teile inspiziert. Das Beweismaterial muss als Ganzes betrachtet werden, um zu einem Urteil ueber die Schuld des Angeklagten zu gelangen. Es ist unmoeglich, die Gesamtwirkung des Beweises abzuschuetzen, wenn man die Dokumente gesondert betrachtet und ihnen nur das Gewicht von so und so viel Stuecken toten Papiers beimisst.

.....

Ich wage die Voraussagen, dass die zusammenfassenden Schriftsätze der Verteidigung eine langatmige Miss-
handlung eines jeden Dokumentes enthalten werden, von
welch letzteren jedes einzelne erst erledigt werden wird,
bevor zum nächsten uebergegangen wird, ohne jemals zu
dem vollen Kernpunkt des Beweises durchzudringen. Man
kann wohl gelegentlich einzelne Zweige von einem Baum
abbrechen, aber wenn diese Zweige einmal gebündelt sind,
koennen sie ^{nicht} gebrochen werden. Dasselbe gilt fuer unser
Beweismaterial.

(Seite 14 des Originals)

Ebensowenig koennen diese Versuche wie hermetisch
verschlossene Behälter betrachtet werden. Verschiedene
Versuche muessen in ihrer Gesamtheit betrachtet werden,
um die volle Schuld des Angeklagten zu wuerdigen, selbst
wenn uns ein Schuldurteil nicht hinsichtlich jedes dieser
Versuche nachgesucht werden sollte. Zum Beispiel, alle
Angeklagten von der Luftwaffe moechten, dass der Gerichts-
hof zum Schluss komme, dass bei den Hoehenversuchen der
verstorbene Rascher ziemlich allein fuer alle Todesfaelle
verantwortlich gewesen ist, obschon er zu der Zeit im ak-
tiven Dienst bei der Luftwaffe stand. Als die Angeklagten
Ruff und Romberg angeblich erstmalig von seinen "ausser-
planmaessigen" Toetungen dadurch, dass jemand vor den
Augen Rombergs getoetet wurde, erfahren haben, verblieben
sie einfach in Dachau, um weitere 6 Wochen mit Rascher
zusammenzuarbeiten, und ^{mit} Romberg ^{hnt} seiner Aussage zufolge
schliesslich gesehen, wie damals nur noch zwei weitere
Personen getoetet wurden. Wuerde man, irgendwie fuer einen

(Seite 14 des Originals, Forts.)

Augenblick den Gedanken hegen, dass in dem beispielhaften Verhalten dieser beiden Tugendritter des Luftwaffensanitätswesens die leisestenmildernden Umstände zu entdecken waren, dann wollen wir der Wahrheit ueber ihr angebliches ~~Sich~~zurueckziehen von Rascher auf den Grund gehen und die Kaelteversuche betrachten, mit denen 30 Tage, nachdem Ruff, Romberg und Rascher ihren gemeinsamen Bericht ueber die Hoehenversuchs-Amusements herausgegeben hatten, begonnen wurde. Hat der Luftwaffensanitätsdienst irgend etwas mit diesen Versuchen an Dachauer Haeftlingen zu tun gehabt, nachdem dieser Lump Rascher Menschen in der Unterdruckkammer der Luftwaffe getoetet hatte? Jawohl, diese Versuche wurden von der Luftwaffe angeordnet und ausschliesslich von Luftwaffenaerzten ausgefuehrt. Hätte Rascher irgend etwas damit zu tun? Ja, in der Tat! Er half Holzlochner und Finke dabei noch viele andere Opfer aus dem Konzentrationslager zu Tode zu quaelen. Wussten Ruff und Romberg etwas von dieser fort. esetzten verbrecherischen Taetigkeit? Jawohl, im September bekam Romberg einen Orden auf Raschers Vorschlag, und im September 1943 waren Ruff und Romberg beide hier in Nuernberg und hoerten sich Holzlochners und Raschers sehr erbauenden Berichte ueber die Kaelteversuche an. Um daher die volle Schuld der Angeklagten Ruff und Romberg im Zusammenhang mit den Hoehenversuchen zu waerdigen, muss man unbedingt auch die Kaelteversuche betrachten, und da wird man finden, dass Rascher, nicht im entferntesten von einem Kriegsgericht der Luftwaffe abgeurteilt wurde, nachdem diese volle Kenntniss von dem Vorgefallenen erhalten hatte, seinen Rang behielt und weiter

(Seite 14 des Originals, Forts.)

hin sein moerderisches Werk in Zusammenarbeit mit anderen
Luftwaffen-Doktoren fortsetzte.

(Seite 15 des Originals)

Aus diesem Ueberblick ueber die Anklageschrift
und aus dem Beweismaterial der Anklagevertretung ist er-
sichtlich, dass diese Angeklagten zum ueberwiegenden Teil
wegen des Verbrechens des Mordes vor Gericht stehen. Wie
in allen Strafprozessen stehen zwei einfache Fragen vor
uns: Sind die Verbrechen begangen worden, und wenn ja,
standen diese Angeklagten mit der Ausfuehrung in Verbindun-
in einer Weise, wie in Gesetz No. 10 einzeln ausgefuehrt
ist? Nur die Tatsache, dass diese Verbrechen teil-
weise in Auswirkung von medizinischen Versuchen an lebende
Menschen ausgefuehrt wurden, macht diesen Prozess irgend-
wie einzig dastehend. Und wenn auch erhebliches Beweis-
material technischer Art eingereicht wurde, so darf man
doch nicht die wahre Einfachheit dieses Prozesses aus dem
Auge verlieren. Der Angeklagte Rose, der den Zeugen der
Anklagevertretung, Dr. A.G. Ivy von der medizinischen
Fakultaet der Universitaet von Illinois, im Zeugenstand
befragen durfte, wurde ganz ausser sich bei dessen stach-
diger Wiederholung des Grundprinzips, dass menschliche
Versuchspersonen Freiwillige sein muessten. Dies ist na-
tuerlich der Grundfehler dieses Prozesses. Es gibt
tatsaechlich auch noch andere Voraussetzungen fuer die
Vornahme erlaubter medizinischer Experimente an lebenden
Menschen. Dem Versuch muss das Resultat von Tierversuchen
und Kenntnis der natuerlichen Entstehungsgeschichte der
betreffenden Krankheit zu Grundeliegen und es muss so ge-
plant sein, dass das vorausgesehene Resultat die Ausfuehru

(Seite 15 des Originals, Forts.)

der Versuche auch rechtfertigt. Das heisst, dass diese Versuche derart sein muessen, dass die Ergebnisse fuer das Wohl der Gemeinschaft erzielen, die durch andere Forschungsmethoden nicht erreicht werden koennen und dass sie nicht ihrer Natur nach wahllos und unnootig sind. Ferner muessen die Versuche von wissenschaftlich geschulten Leuten und zwar so vorgenommen werden, dass jedes unnootige koerperliche und seelische Leiden oder jede Schaedigung ausgeschaltet wird. Wenn von vornherein Grund zur Annahme besteht, dass der Tod oder Verkruemmung eintreten koennte, so muessen die, die die Versuche anstellen, sich selbst als Versuchspersonen zur Verfuegung stellen, zusammen mit dem nicht-wissenschaftlichen Personal. Dies alles sind wesentliche Grundsaeetze, die staendig von den Angeklagten und ihren Mitarbeitern verletzt worden sind. Zum Beispiel muss noch der Angeklagte gefunden werden der sich selbst diesen Versuchen, durch die ihre Opfer in den Konzentrationslagern getoetet oder gequaelt worden sind, ausgesetzt haette. Aber so wesentlich jene anderen Erwaegungen auch sein moegen, der Hauptgrundsatz aller aertzlichen Moral und menschlichen Anstandes bleibt, dass diejenigen, die den Versuchen unterworfen werden, dies freiwillig tun nachdem sie ueber deren Wesen und Gefahren unterrichtet wurden. Dies bedeutet den klaren Trennungsstrich zwischen dem Kriminellen und dem, was Nichtkriminell sein mag. Wenn man von den Versuchsobjekten nicht sagen kann, dass sie sich freiwillig gemeldet haben, dann eruebrigt sich jede weitere Untersuchung. So einfach liegt die Sache in diesem Prozess.

(Seite 16 des Originals)

Was ist denn nun ein Freiwilliger? Wer eine blühende Phantasie hat, könnte erdachte Fälle anführen, die ein recht scharfsinniges Urteilsvermögen erfordern. Der Gerichtshof steht keinem solchen Problem gegenüber. Es ist überwältigendes Beweismaterial vorhanden, dass man niemals auch nur im geringsten versehensweise, dass Freiwillige benutzt wurden. Gerade weil nicht zu erwarten war, dass sich zu diesen moerderischen Versuchen, die den Gegenstand dieses Prozesses bilden, Freiwillige melden würden, hielten sich die Angeklagten an den unerschöpflichen Quell unglückseliger und bedrückter Gefangener aus den Konzentrationslagern. Kann irgendjemand ernstlich glauben, dass Polen, Juden oder Russen oder sogar Deutsche sich freiwillig den Qualen der Unterdruckkammer und des Gefrierbeckens in Dachau, der Giftkammer in Hatzweiler oder der Röntgen-Sterilisations-Apparate in Auschwitz unterwarfen? Ist anzunehmen, dass die polnische Mädchen in Ravensbrück ihre uneingeschränkte Zustimmung dazu gaben, zum Ruhme des Dritten Reichs verstümmelt und getötet zu werden? War der bemitleidenswerte Zigeuner, der den Angeklagten Beiglboeck hier in diesem Gerichtssaal tödlich angriff, freiwilliger Teilnehmer an den Seewasserversuchen? Kann man wirklich sich einbilden, dass die Hunderte von Opfern der moerderischen Fleckfieberstationen in Buchenwald und Hatzweiler ihre Zustimmung zu diesen Versuchen^{gegeben}/haben? Das Schwergewicht der Beweise lässt gar keinen Zweifel an der Beantwortung dieser Fragen aufkommen. Die Aussagen der Versuchspersonen, der Augenzeugen und die Dokumente der Angeklagten

(Seite 16 des Originals, Forts.)

selbst bestaetigen ohne den leisesten Zweifel, dass diese Versuchspersonen im wahrsten Sinne des Wortes Unfreiwillige waren.

Diese Tatsache wird von den Angeklagten auch nicht ernstlich bestritten. Die meisten von ihnen, die diese Versuche vornahmen, haben zugegeben, dass sie die Leute nicht einmal gefragt haben, ob sie sich freiwillig fuer die Versuche gemeldet haetten. Vor der rechtlichen und moralischen Erfordernis der Zustimmung machen die Angeklagten zwar eine theoretische Vorbeugung, lassen sich aber gleichzeitig fuer einen oeiligen Rueckzug ein Hintertuerchen offen. So wird gesagt, dass der totalitaere "Staat" die Verantwortung fuer die Zuweisung der Versuchspersonen uebernommen haette und dass unter diesen Umstaenden die Maenner, die

(Seite 17 des Originals)

die Versuche geplant, befohlen, vorgenommen oder sonstwie sich daran beteiligt haben, nicht strafrechtlich zur Verantwortung gezogen werden koennen, selbst wenn Unfreiwillig gequaelt worden und dabei umgekommen sind. Dies hat sich vielleicht am deutlichsten bei der Vernehmung des Angeklagten Karl Brandt durch den Gerichtshof herausgestellt. Um seine Ansicht ueber einen Versuch von angeblich hoechster militaerischer Bedeutung befragt, der unfreiwilliger Natur war und in Todesfaellen endete, antwortete Brandt:

"In diesem Falle bin ich angesichts der Kriegslage der Ansicht, dass die staetliche Einrichtung, welche die Wichtigkeit fuer das Staatsinteresse ausgesprochen hat, auch gleichzeitig dem Arzt die Verantwortung fuer den Fall abnimmt, dass solche Untersuchungen einen ungluecklichen Ausgang nehmen,

(Seite 17 des Originals, Forts.)

und dass die Verantwortung dafuer vom Staate getragen werden muss".¹⁾

Weitere Befragungen brachten die Ansicht zu Tage, dass der einzige in diesem angenommenen Fall moeglicherweise verantwortliche Mann Himmler gewesen waere, der die Gewalt ueber Leben und Tod der Konzentrationslagerinsassen hatte, selbst wenn der Versuch zum Beispiel vom Chef des Luftwaffen-Sanitaetswesens befohlen und von ihm unterstellten Aerzten ausgefuehrt worden war. Die Mehrzahl der anderen Angeklagten stellten sich auf einen aehnlichen Standpunkt, dass sie naemlich fuer die Auswahl der Versuchspersonen nicht verantwortlich gewesen seien.

Dieses Vorbringen ist in den Augen der Anklagevertretung voellig unaufrichtig. Die Verwendung unfreiwilliger Versuchspersonen bei medizinischen Experimenten ist ein Verbrechen, ist das Verbrechen des Mordes, wenn diese Experimente Todesfolge zur Folge haben. Jeder Teilnehmer, an den Versuchen ist des Mordes schuldig, und von dieser Schuld kann ^{sich} er/nicht loesen, wenn ein Dritter die Opfer geliefert hat. Die das Experiment entwerfende, anordnende, unterstützende und ausfuehrende Person hat die moralische und rechtliche Verpflichtung, dafuer zu sorgen, dass diese Versuche auch ordnungsgemaess durchgefuehrt werden. Diese Verpflichtung ist unuebertragbar. Es obliegt den die Versuche vornehmenden Aerzten zweifellos, sich davon zu ueberzeugen, dass die Betroffenen, nach ^{dem} ~~die~~ ueber die Natur und Gefahren dieser Versuche unterrichtet worden sind, sich freiwillig gemeldet haben. Sind sie nicht freiwillig gekommen, so ist es seine Pflicht, dies seinen

1) Protokoll, S. 2567

(Seite 17 des Originals, Forts.)

Vorgesetzten zu melden und die Versuche abubrechen. Die Angeklagten haben sich in der Vorspiegelung absoluter Unkenntnis hinsichtlich der Zustimmung seitens ihrer Versuchsoffer gegenseitig ueberboten, Sie wussten, wie das Beweismaterial zeigt, dass die unglueckseligen Haeftlinge sich zu ihrer Folterung und Toetung nicht freiwillig gemeldet hatten. Selbst wenn man das Unmoegliche, naemlich, dass sie es nicht wussten, annahme, so ist das doch ihre Schuld - und nicht ihr Freispruch. Kenntnis hatten sie sich durch das einfache Mittel, die Betroffenen zu fragen, verschaffen koennen. Die Verpflichtung, sich zu erkundigen, koennte gar nicht klarer sein und kann auch nicht durch solch lahme Entschuldigungen wie: "Ich glaubte, es waren Freiwillige" oder "Himmler hat mir versichert, dass es Freiwillige waeren" umgangen werden.

(Seite 18 des Originals)

In diesem Zusammenhange sollte niemals ausser Acht gelassen werden, dass diese Versuche in Konzentrationslagern an K.Z.-Haeftlingen durchgefuehrt wurden. Wie wenig auch einige der Angeklagten von der gesetzlosen Wildnis der Konzentrationslager angeblich gewusst haben, wo gewalt-samer Tod, Folterung und Verhungern das taegliche Leben der Insassen ausfuehlten, so wussten sie doch zumindest, dass dies Staetten des Terrors waren, wo alle in Oppo-sition zur Nazi-Regierung stehenden Personen ohne Ver-fahren gefangen gehalten, wo Juden und Polen und andere sogenannte "rassisch Minderwertige" wegen keines irgendwie gearteten Verbrechens eingekerkert waren, es sei denn, dass ihre Rasse oder Religion ein Verbrechen war. Diese einfachen

(Seite 18 des Originals, Forts.)

Tatsachen waren während des Krieges in der ganzen Welt bekannt. Wie viel grösser war dann die Pflicht dieser Angeklagten, die Freiwilligkeit dieser so bequem zur Verfügung stehenden Versuchspersonen ausserst sorgfältig ausfindig zu machen. Zwar konnten diese Angeklagten nicht der Verantwortlichkeit fuer den Verbrechenskomplex, den das Konzentrationslagersystem ausmachte, beschuldigt werden. Aber es kann nicht behauptet werden, dass sie durch das Hoellentor schreiten und dennoch sagen konnten: "Bringt die Versuchspersonen! Ich sehe nichts Boeses; ich hoere nichts Boeses; ich spreche nichts Boeses!" Sie stellten keine Fragen. Sie befragten die Insassen nicht nach solchen Einzelheiten wie Zustimmung, Nationalitaet, ob sie durch ein Gericht abgeurteilt worden waren, was fuer ein Verbrechen sie begangen hatten und dergleichen. Sie taten es nicht, weil sie wussten, dass die bojemornenwertten Haefitlinge sich nicht freiwillig fuer ihre Versuche gemeldet hatten und dass man dies auch nicht von ihnen erwartete. Sie nahmen die Nazi-Lehre und den Nazi-Lebensstil willig an. Was diese Angeklagten taten, war das Ergebnis der verderblichen Synthese zwischen dem deutschen Militarismus und der Nazi-Rassen-Ziele. Als angesichts des kritischen Mangels an Fleckfieberimpfstoffen zum Schutze der Wehrmacht bei ihren Einfällen im Osten, Handloser und seine Gesellen zu dem Schluss kamen, dass die Tierversuche zu langsam seien, wurden die Haefitlinge von Buchenwald zu Hunderten fuer die Erprobung neuer Impfstoffe geopfert. Als Schroeder die menschliche Toleranzgrenze im Meerwasser bestimmen wollte,

(Seite 18 des Originals, Forts.)

beschritt er den von der Luftwaffe betretenen Weg nach Dachau und holte sich 40 Zigeuner. Diese Angeklagten benutzten offenen Auges die unterdrueckten und verfolgten Opfer des nationalsozialistischen Regimes, um elenden und widerstrebenden Leibern durch Tod, Folterung, Verstummung und dauernde koerperliche Schaedigung ein Troepfchen wissenschaftlicher Erkenntnis abzuringen. Fuer diese greifbaren Verbrechen verlangt die Gerechtigkeit strenge Suchne.

(Seite 19 des Originals)

Das gemeinsame Verhaben oder die Verschwörung.

Es darf nicht uebersohen werden, dass die in dem vorliegenden Falle erwiesenen Versuche keineswegs zufaeliger Natur waren und zu den anderen Verbrechen in keiner Beziehung standen. Im Gegenteil, sie bildeten ein vollstaendiges verbrecherisches Programm, in welchem die Angeklagten untereinander und mit anderen Personen planten und zusammenarbeiteten. Eines sollte zu Beginn klargestellt werden. Jedes Experiment stellte an und fuer sich selbst eine verbrecherische Verschwörung dar. Keines wurde von einem einzelnen Menschen entworfen und ausgefuehrt. Jedes erforderte die Bemuehungen einer Anzahl von Leuten und die Zusammenarbeit verschiedener Dienststellen. So spielte in den Fleckfiebersversuchen in Buchenwald das Sanitaetswesen des Heeres, der Luftwaffe und der SS saemtlich eine wichtige Rolle. Das Mass der Schuld solcher Angeklagter wie Handloser, Schroeder, Rose, Gonzken, Krugowsky, Poppendick und Hoven entspricht der Gesamtsumme der dort veruebt

(Seite 19 des Originals, Forts.)

Verbrechen. Diese Versuche waren tatsaechlich ein fortgesetztes Verbrechen, an denen alle einen bedeutenden Anteil hatten. Der Angeklagte Rose, zum Beispiel, leitete persoenlich im August 1942 und Maerz 1944 in Buchenwald Versuche ein, die den Tod von zehn Personen zur Folge hatte. Aber er ist gleichermassen des Mords mehrerer hundert anderer Opfer schuldig, da er an dem gemeinsamen Unternehmen teilnahm und es foerderte.

Somit steht unlaugbar fest, dass jeder Versuch per se eine kleine Verschwörung bildete, und jeder Teilnehmer darin muss fuer die Gesamtsumme der in seiner Ausfuehrung begangener Verbrechen als verantwortlich bezeichnet werden. Es ist jedoch ebenso klar, dass diese verbrecherischen Komplote sich ueberschnitten und zu einem grossen gemeinsamen Plan verschmolzen. Diese Verbrechen wurden systematisch und in Verfolg einer Politik veruebt, die von den fuehrenden Maennern des deutschen Sanitätswesens festgelegt war, welche die Durchfuehrung hoechst gefaehrlicher Versuche an Menschen ohne deren Zustimmung befahlen und billigten. Der innere Zusammenhang

(Seite 20 des Originals)

und die gemeinsame Grundlage dieser Verbrechen wird durch einen einfachen chronologischen Rueckblick scharf beleuchtet. Die ersten Anfaenge des Programms gehen auf den Mai 1941 zurueck, als der Hauptmann der Luftwaffe Rascher, mit Hilfe und Unterstuetzung des Angeklagten Woltz und eines Assistenten namens Kottendorf, Himmler Vorschlaege fuer die Verwendung von Haeftlingen fuer Hoehe

(Seite 20 des Originals, Forts.)

versuche unterbreitete, die, wie er angab, so gefährlich seien, dass "sich niemand freiwillig meldete". Im Dezember 1941, als man fuer den Einfall der wehrmacht in Osten Fleckfieberimpfstoffe benoetigte, kam der Angeklagte Handloser, als Inspekteur des Sanitaetswesens des Heeres, mit Conti, dem Staatssekretaer fuer das Gesundheitswesen und Mrugowsky, dem Untergebenen des Angeklagten Gensken und Leiter des Hygiene-Institutes der Waffen-SS zusammen und traf die grundsatzliche Entscheidung fuer die Erprobung von Fleckfieber-Impstoffen durch Menschenversuche. Das Ergebnis war, dass um die Jahreswende die verbrecherischen Fleckfieber-Versuche, die mehreren hundert Menschen das Leben kosten sollten, in Buchenwald im Gange waren. Dr. Schilling wurde im Februar 1942 durch Contis Vermittlung mit "Menschen-Material" fuer Malariaversuche in Dachau versorgt, und die Angeklagten Ruff und Romberg wurden im gleichen Monat und am gleichen Ort Partner von Rascher und Toltz in den Todestanz. Im Mai 1942 hielt der Angeklagte Rostock auf der Tagung der beratenden Aerzte der Wehrmacht einen Vortrag ueber die chemotherapeutische Behandlung von Wundinfektionen, insbesondere mit Sulfonamiden. Fuenfundvierzig Tage spaeter begann der Angeklagte Gebhardt, angespornt durch seinen Verlust des "Honkers" Heydrich, seine Sulfonamid-Versuche in Ravensbrueck, unterstuetzt durch die Angeklagten Fischer und Oberhouser und mit Hilfe der Wundbrandkulturen, die von Gensken und Mrugowsky geliefert wurden. Unter der Leitung von Brawitz fanden zu gleicher Zeit in Dachau begleitende Versuche zur Erprobung der biochemischen Behandlung der Sepsis statt, die mittels Eiter-Injektion hervorgerufen wurde.

(Seite 21 des Originals)

Im August 1942, als das Blut der in den Unterdruckkammern
sozierten Häftlinge kaum getrocknet war, erteilte das
Sanitätswesen der Luftwaffe an Holzschner, Finke und
Rascher den Befehl, Kälteversuche durchzuführen, um
die wirksamsten Mittel fuer die Behandlung langwährender
Unterkuehlung festzustellen. Im November 1942 begann
August Hirt, unter der Aegis des kurz vorher gegruendeten
Militaerwissenschaftlichen Forschungsinstituts des Ahnen-
erbes, das von dem gewissenlosen Sievers geleitet wurde,
seine moerderischen Gasversuche, mit Hilfe und Unter-
stuetzung Wimmers, eines Sanitäts-offiziers der Luftwaffe.
Im Zusammenhang mit diesen Versuchen schrieb der Ange-
klagte Sievers, der zur gleichen Zeit den reibungslosen
Fortgang der Malaria- und Kälteverbrechen ueberwachte,
an Rudolf Brandt, wie erhoert er ueber die Anregung sei,
die bejammernswerten Opfer zu bezahlen. Hilfsbereit, wie
er nun mal war, brachte Brandt die Sache sofort mit Ober-
gruppenfuhrer Pohl, dem Verwaltungschef der Konzen-
trationslager, in Ordnung.

Diese Verbrechen wurden nicht in Zuge einfacher
wissenschaftlicher Bestrebungen begangen, wie dies bei
einigen der "Feld-, Wald- und Wiesen-Charakter" tragenden
Spielart in der Gruppe der Konzentrationslager-greuel-
taten der Fall war. Im Oktober 1942 nahmen die Angeklagt
Becker-Freysong, Ruff, Ronberg, Rose, Schaefer und Volts
zusammen mit etwa 100 Vertretern des gesamten deutschen
Sanitätswesens an einem grossen Kälte-Kongress in
Muenchen teil. Die Tagung wurde von Anthony und den An-
geklagten Becker-Freysong fuer die Luftwaffe veranstaltet.
Schreiber, einer der ersten Untergebenen Handlagers, war

(Seite 21 des Originals, Forts.)

anwesend. Holzlochner und Rascher erstatteten Bericht ueber ihre Kaelteversuche und es wurde jedem, der hoeren wollte, klar gemacht, dass Konzentrationslager-Insassen als Versuchspersonen verwendet wurden und dass Todesfaelle vorgekommen waren. Schreiber erstattete augenscheinlich seinem Chef Handloser einen solch begeisterten Bericht, dass Holzlochner zu einer Wiederholung ^(Seite 22 des Originals) anlaesslich der Zweiten Ost-Sitzung der Beratenden Aerzte der Wehrmacht im Dezember 1942 aufgefordert wurde. Handloser hoerte diesmal den Vortrag persoenlich an. Bei dieser gleichen Sitzung wurde Ding von seinem Vorgesetzten Krugowsky auf Veranlassung von Handlosers Lekaion Schreiber und Killian angewiesen, mehreren Insassen Buchenwalds eine intravenoese Dosis Phenol einzuspritzen und ueber die klinischen Einzelheiten der sich ergebenden Todesfaelle zu berichten. Diese Herren waren ueber Beobachtungen, wonach einige ihrer Soldaten nach Einspritzung eines Gas-Oodon-Serums gestorben waren, beunruhigt und wuenschten festzustellen, ob die Todesfaelle durch den Phenolgehalt verursacht worden waren.

Auf der dritten Sitzung der beratenden Aerzte im Mai 1943 berichtete Gebhardt der chirurgischen Abteilung ueber seine Versuche. Rostock stellte das Programm zusammen und fuehrte den Vorsitz, waehrend Karl Brandt und Handloser die Ehrenplaetze einnahmen. Was sie hoerten, war fuer sie keine Ueberraschung. Gebhardt und Fischer gaben einen vollstaendigen Bericht ueber die Sulfonamid-Versuche bis auf den letzten Todesfall. Gebhardt war daerart bemueht, seine Schuld zu verringern, dass er dem Gericht gegenueber die Vollstaendigkeit ihres Berichtes betonte. Dies brachzte seine Vorgaenger auf den Zeugenstand, die

(Seite 22 des Originals, Forts.)

ganz sicher waren, dass nichts ueber kuennstliche Infektion oder Todesfaelle gesagt worden war, einigermassen in Verlogenheit. Karl Brandt hatte diese Sitzung kaum verlassen, als er mit Grawitz Abmachungen traf, Insetzen aus dem Konzentrationslager Sachsenhausen fuer die Epidemische Gelbsucht-Versuche zu beschaffen, die von Dohnen, einem Sanitaetsoffizier des Heeres unter Handloser, durchgefuehrt wurden. Diese Krankheit verursachte bei den Einheiten der Wehrmacht in Osten bis zu 60 % Ausfaelle.

Auf der gleichen Versammlung hielt Ding von der Abteilung Hygiene einen Vortrag ueber seine moerderischen Fleckfieber-Versuche in Buchenwald. Schroiber hatte den Vorsitz, und die Angeklagten Rose und Krugowsky waren anwesend, ebenso wie Haagen, der Fleckfieber-Spezialist der Luftwaffe, der, ^(Seite 23 des Originals) milder gesagt, mit der Wahrheit auusserst sparsam umging, als er vor diesem Gericht aussagte. Es ist keine Frage, dass Rose scharfe Bedenken gegen diesen Bericht geltend machte, obwohl seine fruhere und spaetere Haltung keinen Zweifel darueber laesst, dass diese mehr auf wissenschaftlichen als moralischen Gruenden beruhten. Auf jeden Fall, was Ding recht war, war Haagen billig. In diesem gleichen Monat begann er im Konzentrationslager

Schirneck mit Hilfe und Unterstuetzung Roses und des Luftwaffen-Sanitaetswesens mit seinen eigenen Fleckfieber-Inpfestoffversuchen. Als Ergebnis waren innerhalb von 30 Tagen bereits zwei Insassen gestorben. Im Herbst 1943 verlegte Haagen seine Taetigkeit in das groessere Lager Natzweiler, wo er unter der Leitung des Angeklagten Schroeder sein verbrecherisches Werk bis zum Spaetsommer 1944 fortsetzte.

(Seite 23 des Originals, Forts.)

In Herbst 1943 unternahm Karl Brandt als Generalkommissar fuer das Sanitaets- und Gesundheitswesen die persoennliche Foerderung der Phosgengas-Versuche Bickenbachs, der frueher mit Hirt an Haeftlingen aus Natzweiler gearbeitet hatte. Die Wehrmacht war an diesen Versuchen ebenfalls interessiert. Brandt erhielt weitgehende Vollmachten auf dem Gebiete der chemischen Kriegsfuehrung durch einen Fuehrer-erlass vom 1. Maerz 1944. Kurze Zeit darauf konferierte er mit den Angeklagten Sievers und Hirt ueber die Natzweiler-Versuche. Er versorgte Bickenbach, der bis September 1944 vier russische Kriegsgefangene ermordet hatte, persoennlich mit Laboratoriums-Einrichtungen.

Im Juni 1944 leitete der Angeklagte Schroeder persoennlich und mit Hilfe seiner Untergebenen Becker-Freyseng und Schaefer Elcene fuer die Meerwasser-Versuche ein. In einem Schreiben, das er durch Grawitz an Himmler richtete und in dem er um "40 gesunde Versuchspersonen" fuer Versuche bat, von denen er wusste, dass sie wahrscheinlich mit Todesfaellen enden wuerden, sagte er:

(Seite 24 des Originals)

"Sie haben es bereits frueher der Luftwaffe ermoeeglicht, drin_gende medizinische Angelegenheiten mittels Versuche an Menschen zu erledigen." Er schloss mit den Worten: "Da von frueheren Versuchen her bekannt ist, dass in Konzentrationslager Dachau die notwendigen Laboratorien vorhanden sind, wuerde dieses Lager sehr geeignet sein."¹⁾ Der Angeklagte Beiglboeck nahm an der Verschwuerung teil und fuehrte die Versuche durch.

Im Juni 1944 wurde von dem Angeklagten Handloser in Breslau eine Besprechung zum Zwecke einer Zusammenfassung der

1) HQ-185, Ankl. Bew. 134, R. 483.

Gelbsucht-Forschung anberaumt. Gelbsucht-Spezialisten aus allen Zweigen der Wehrmacht, darunter Haagen, waren anwesend, und Handlosers Untergeordneter Schreiber führte den Vorsitz. Es wurden Versuche an menschlichen Objekten besprochen, und einige Wochen später begannen Haagen und drei andere Offiziere der Luftwaffe, Pläne für Versuche an Menschen in "Strassburg oder Umgebung" - ein offensichtlicher Hinweis auf Metzweiler - vorzubereiten. Dass auf der Breslauer Konferenz Versuche an Konzentrationslager-Insassen besprochen wurden, geht aus der Tatsache klar hervor, dass Schreiber einige Zeit später persönlich an Krugowsky die Bitte richtete, Häftlinge aus Buchenwald für Gelbsucht-Versuche vonseiten Dr. Drexler zur Verfügung zu stellen.

Die vorstehende chronologische Darlegung einiger der Versuche, obwohl unvollständig, genügt, um zu zeigen, dass ein systematisches und geschlossenes Programm vorlag, welches medizinische Versuche an Konzentrationslager-Häftlingen ohne deren Zustimmung in sich einschloss. Die Anforderungen an die SS auf Lieferung menschlicher "Versuchskaninchen" hatten einen solchen Umfang angenommen, dass von Himmler im Mai 1944 eine Zentrale Ausgleichsstelle eingerichtet wurde. Der Angeklagte Gebhardt reusserte sich über die medizinische Notwendigkeit des vorgeschlagenen Versuchs, während Glücks und Hebe bei der Auswahl der Weihuopfer als Walkueren fungierten. Bereits im August 1942 wurde die

kriegswissenschaftliche Forschung des Ahnenorbes unter Siovers geschaffen, um Ausruestung, Gefangene und Verwaltungstechnische Hilfe fuer Versuche, an denen Himmler besonders interessiert war, zu beschaffen und zu finanzieren. Dieses verbrecherische Programm leitete sich aus zwei Hauptquellen her. Himmler, als Fuehrer der SS, stellte ungezahlte Opfer fuer die Versuche zur Verfuegung und gewann damit neuen Ruhm und neue Macht fuer seine verbrecherische Organisation. Die fuehrenden Maenner des deutschen militaerischen und zivilen Sanitaetswesens als zweite treibende Kraft, ergriffen ruecksichtslos die sich ihnen bietende Gelegenheit und unterbreiteten ihre wissenschaftlichen Probleme zur Loesung in den Konzentrationslagern. Karl Brandt, Handloser, Schreiber, Hippke, Schroeder, Conti und ihre Untergebenen und andere waren die wissenschaftlichen Triebkraefte. Rudolf Brandt und Siovers setzten Himmlers Genehmigung zur Stellung der Opfer in die Tat um, und sie lenkten den Verwaltungsapparat. Die fuehrenden SS-Mediziner Grawitz, Gonzken, Gebhardt, Krugowsky und Poppendick gaben ihren Untergebenen wie Ding, Hoven und Fischer die noetigen Anweisungen und halfen bei der Ausfuehrung der Verbrechen. Brandt, Blome und Schreiber leisteten finanzielle Hilfe durch den Reichsforschungsrat, der eine Verwendung von Reichsmitteln fuer die Ausweitung des SS-Sanitaetswesens auf Grund der Tatsache genehmigte, dass es menschliches "Versuchsmaterial" zur Verfuegung hatte. Rostock, als Chef des Amtes fuer Wissenschaft und Forschung, bezeichnete die verbrecherische Forschungsarbeit von Hirt, Haagen und Eickenbach als "dringend". Die Wehrmacht stellte Aufsichtspersonal und technische Hilfsmittel fuer jene Versuche zur

Verfuegung, an denen sie besonders interessiert war. Eine Unterdruckkammer wurde fuer die Hoehenversuche, die Dienste von Weltz, Ruff, Romberg, Rascher, Holzloehner und Finko fuer die Hoehen- und Kaelte-Grauel und die von Becker-Freyseng, Schaefer und Beiglboeck fuer die Seewasserversuche zur Verfuegung gestellt. Rose ging in der Luftwaffen-Fleckfieberstation in Buchenwald ein und aus und ueberpruefte die Arbeiten Haagens in Schirmeck und Natzweiler. Mit Hilfe von Schreiber, Eyer und Schmidt

(Seite 26 des Originals)

behielt Handloser die Arbeiten Dinge im Auge und versorgte ihn mit Impfstoffen und flockfieberinfizierten Lacusen. Er sorgte dafuer, dass die brauchbaren Ergebnisse der Verbrechen seinen Beratenden Aerzten berichtet und an die Wehrmacht weitergegeben wurden.

Dies war die teuflische Dreieinigkeit; dies der gemeinsame Plan. Es war gleich einem riesenhaften Wagenrad, dessen Speichen die Versuche waren, die in der gemeinsamen Nabe der SS zusammenliefen, welche die Opfer stellte, und alle verbunden durch die Richtlinien und die Befehle der fuehrenden Maenner des deutschen Sanitaetswesens, die den Wagenradkranz bildeten. Obschon die Angeklagten das Bestehen eines gemeinsamen Planes und ihre Teilnahme daran leugnen, verstecken sie sich trotzdem widersprechenderweise hinter der staatlichen "Genehmigung" der Versuche. Der Angeklagte Rose, durch von seiner eigenen Hand stammendes Beweismaterial der Teilnahme an den Fleckfieberverbrechen in Buchenwald ueberfuehrt, sang gleichsam folgenden Schwanengesang, als er sagte;

"Dieses Institut wurde von Staats wegen in Deutschland eingerichtet, genehmigt und von ihm gedeckt. Damals war ich in einer Lage, die man vielleicht der eines Juristen vor-

gleichem kann, der vielleicht im Grunde ein grundsätzlicher Gegner der Hinrichtung und Todesstrafe ist. Wenn er auf Kongressen oder Versammlungen mit führenden Männern der Regierung oder mit Juristen zu tun hat, wird er alles in seiner Macht stehende tun, um seine Meinung hierüber zu vertreten und durchzusetzen. Wenn ihm dies jedoch nicht gelingt, bleibt er dennoch in seinem Amt und in seiner Umgebung. Und obschon er im Grunde ein Gegner dieser Einrichtung ist, kann es vorkommen, dass er selber ein solches Todesurteil auszusprechen gezwungen ist." 1)

Gobhardt hat bezeugt, dass Hitler das Experimentieren an Konzentrationslagerinsassen gebilligt hat. Er hat zugegeben, dass diese Versuche ohne Genehmigung von "oben" nicht unternommen worden waren. Sogar Himmler versteckte sich hinter Hitler. Mehr behauptet die Staatsanwaltschaft nicht. Diese Politik systematischer Versuche an unfreiwilligen Objekten wurde von den Angeklagten und ihren Helfern geplant und ausgeführt.

1) Protokoll, Seite 6467.

(Seite 27 des Originals)

So also arbeitete das Sanitätswesen im Dritten Reich. Es kann keinem Zweifel unterliegen, dass dies nicht verschieden geartete und unzusammenhängende Verbrechen waren. Sie hängen zusammen als ausgesprochene Verschwörung. Jedes einzelne Experiment bekräftigte die vorhergehenden und veranlasste die nachfolgenden. Welche Ansicht der Gerichtshof auch über die Zuständigkeit haben mag, die Tatsache der Verschwörung steht fest. Da im Punkt I der Anklageschrift die Beschuldigung der Verschwörung erhoben worden ist, ist es wichtig zu wissen, was unter "Verschwörung" zu verstehen und zu bestrafen ist. Justice Jackson sagte in seinem Schlusswort vor dem Internationalen Militärgerichtshof:

"Bei der Verschwörung bestrafen wir keinen Mann fuer die Verbrechen eines anderen. Wir versuchen einen jeden fuer seinen eigenen Anteil an einem gemeinsamen Plan, an dem auch andere beteiligt waren, zu bestrafen. Der Massstab fuer den verbrecherischen Charakter des Planes und damit der Schuld jedes Teilnehmers ergibt sich natuerlich aus der Gesamtsumme der von allen Teilnehmern bei der Ausfuehrung des Planes veruebten Verbrechen. Aber der Kern des Verbrechens ist die Teilnahme an der Ausarbeitung oder Ausfuehrung des Planes. Das sind Grundsätze, die jede Gesellschaftsordnung fuer notwendig befunden hat, um Maenner belangen zu koennen die zwar ihre eigenen Haende nie mit Blut befleckten, wohl aber Plaene schmiedeten, die zu Blutvergiessen fuehrten. Heute werden in ganz Deutschland, in jeder Besatzungszone, die kleinen Leute, die diese verbrecherische Politik auf Befehl ausfuehrten, verurteilt und bestraft. Es wurde eine ungeheuerliche und unverzeihliche Verzerrung der Gerechtigkeit bedeutet, wenn die Maenner, die diese Politik planten und diese kleinen Leute anfuehrten, jeder Bestrafung entgehen sollten." 1)

Es gehoert zum Wesen des Verbrechens der Verschwörung, dass zwei oder mehr Personen sich in der Absicht und zum Zweck der Begangung eines Delikts durch Vornahme einer ungesetzlichen Handlung oder durch Vornahme einer gesetzlich erlaubten Handlung auf ungesetzliche Weise zusammentun und verbuenden. Der Beweis hierfuer kann durch unmittelbares Beweismaterial erbracht werden, kann aber auch aus der Vornahme von tatsaechlichen Handlungen gefolgert werden. Es genuegt, dass die Gedanken der Beteiligten sich zusammenfinden und vereinen im Einverstaendnis zu dem Plane, ein gemeinsames Ziel zu erreichen, was durch materielles Beweismaterial oder durch Schlussfolgerungen aus Tatsachen nachgewiesen werden kann, aus denen natuerlich hervorgeht, dass die Tathandlungen zur Foerderung eines gemeinsamen Planes und Zweckes und einer gemeinsamen Absicht geschahen. Der gemeinsame Plan ist das Wesentliche des Verbrechens, und er kann als vollzogen gelten, wenn die Beteiligten

1) I.M.T. Protokoll, Seite 14370.

fortlaufend dasselbe Ziel verfolgen, entweder einzeln oder gemeinsam mit gleichen oder verschiedenartigen Mitteln, die aber immer zu dem gleichen ungesetzlichen Ergebnis fuhren. Wenn einer oder mehrere der Verschwörer eine offene Erklärung abgeben und die anderen daraufhin durch Worte oder Taten sie befolgen, so ist ihre Verantwortlichkeit vollkommen und ihre Schuld hierbei erwiesen, denn sie sind ad hoc Mitschuldige an dem Verbrechen geworden. Die Verschwörer brauchen weder sich gegenseitig oder den Anteil der anderen an dem Plan noch in der Tat die Einzelheiten des Planes selbst zu kennen. Er mag vielleicht nur seinen eigenen Teil kennen. Dies genuegt, wenn ein wesentlicher Beitrag zum Ganzen geleistet wird. Es ist genug, dass der einzelne Kenntnis von dem gemeinsamen Zweck hat und sich einfuegt. Jeder ist fuer alle zum Zweck der Foerderung der Ziele der Verschwörung und waehrend ihres Bestehens begangenen Handlungen verantwortlich. Sobald sich jemand einer Verschwörung anschliesst, heisst er damit alles gut, was vorher von jedem der anderen begangen worden ist. ¹⁾

Selbst wenn das Gericht entscheidet, dass Verschwörungen zur Veruebung von Kriegsverbrechen oder von Verbrechen gegen die Menschlichkeit nicht seiner Zustaendigkeit unterliegen, gilt selbstverstaendlich das ueber gemeinsame Absicht oder Verschwörung Gesagte. Gesetz Nr. 10, Artikel II, Absatz 2 lautet teilweise wie folgt:

"Ohne Ruecksicht auf seine Staatsangehoerigkeit oder die Eigenschaft, in der er handelte, wird eines Verbrechens nach Massgabe von Ziffer 1 dieses Artikels fuer schuldig erachtet, wer (a) als Tacter, oder (b) als Beihelfer bei der Beghung eines solchen Verbrechens mitgewirkt oder es befohlen oder beguenstigt oder (c) durch seine Zustimmung daran teilgenommen hat oder (d) mit seiner Planung oder Ausfuhrung in Zusammenhang gestanden hat oder (e) einer Organisation oder Vereinigung angehoert hat, die mit dieser Ausfuhrung in Zusammenhang stand"

1) U.S. v. Borden, 138 F.(2d), C.C.A.7, certiorari abgelehnt.

Wenn auch dieser Artikel das Wort

(Seite 29 des Originals)

"Verschwoerung" oder den Ausdruck "Gemeinsame Absicht" nicht benutzt, so erkennt er doch die strafrechtliche Verantwortlichkeit jener an, die massgeblich mit der Begehung eines Verbrechens in Verbindung standen, wenn auch die eigentliche verbrecherische Handlung von einem anderen ausgefuehrt wurde. Jene, die der Verbindung mit einem in dem genannten Artikel aufgefuehrten Verbrechen ueberfuehrt worden sind, muessen auch an dem eigentlichen Verbrechen selbst fuer schuldig befunden werden, das in diesem Falle vorzueglich der Mord ist. Die Merkmale einer strafrechtlichen Verantwortlichkeit einer Person, die "ihre Zustimmung gab zu" oder "mit Plaenen und Unternehmungen in Verbindung stand zwecks" oder "Mitglied irgendwelcher Organisation oder Gruppe war, die im Zusammenhang standen mit" der Begehung eines Verbrechens, umfassen ganz offenbar mehr als die Merkmale der strafrechtlichen Haftbarkeit, die, wie man annimmt, bei denen vorliegt, die sich zu einer verbrecherischen Verschwoerung zusammentun. Ob man daher das verbrecherische Experimentier-Programm nun mit "Gemeinsamen Plan", "Verschwoerung" oder einfach mit "Plan und Unternehmung" bezeichnen mag, so muessen die Angeklagten, die an seiner Ausfuehrung gemeinsam beteiligt waren, der Gesamtschuld der veruebten Verbrechen fuer schuldig befunden werden.

DIE VERANTWORTLICHEN FUEHRER DES GESUNDHEITSWESENS.

Angesichts des klaren und ueberwaeltigenden Beweismaterials kann nur der Schluss gezogen werden, dass die Gewohnheit, an Konzentrationslagerhaeftlingen ohne deren Zustimmung Versuche vorzunehmen, ein organisiertes und systematisches Programm war. Es ist deshalb angemessen, sich zu ueberlegen, ob wir die Leiter des deutschen Sanitaetswesens, ohne die diese Verbrechen nicht moeglich gewesen waeren, auf dieser Anklagebank haben. Es wuerde ein unverzeihlicher Justizirrtum sein, die Aerzte, die in den Konzentrationslagern an den Opfern arbeiteten, zu bestrafen, waehrend ihre Vorgesetzten - die Leiter, Organisatoren und Anstifter - frei ausgingen. Es ist unbestritten festgestellt worden, dass sich diese Dinge ohne Deckung von oben nicht haetten ereignen koennen. Wer waren nun diese Maenner an der Spitze? Die noch leben, sitzen alle mit einer Ausnahme auf dieser Anklagebank.

Der Platz Nr. 1 wird von dem Angeklagten Karl Brandt eingenommen. Er besass die hoechste Autoritaet ueber das gesamte Sanitaetswesen in Deutschland, das militaerische sowohl wie auch das zivile. Er trat der NSDAP im Januar 1932 und im Jahre 1934 der SS bei, in der er bis zum Rang eines Gruppenfuhrers aufstieg. In diesem Jahre - im Alter von 30 Jahren - wurde er Adolf Hitlers behandelnder Arzt und behielt diese Stellung bis zum Jahre 1945. Seine enge persoenliche Beziehung zum Fuehrer erkluert seinen schnellen Aufstieg zur Macht. Am Tage des Einfalls in Polen im Jahre 1939 befahl Hitler Brandt und Philipp Bouhler, dem Chef der Fuehrerkanzlei, das sogenannte Euthanasieprogramm durchzufuehren.

Abgesehen von seinem personlichen Einfluss und seinem vertrauten Verhaeltnis zu Hitler, ruehrt Brandts groesste Macht in dem Sanitaetswesen von seiner Stellung als Generalkommissar und spaeater Reichskommissar des Gesundheits- und Sanitaetswesens her. Als Ergebnis des verhaengnisvollen Winterfeldzuges im Osten im Jahre 1941

(Seite 31 des Originals)

setzte Hitler zum ersten Male durch die Verordnung vom 28. Juli 1942 einen Gesundheits- und Sanitaetsbeamten unter seiner direkten Kontrolle ein. Diese Verordnung gab Brandt die hoechste Gewalt ueber den ganzen Sanitaetsdienst in Deutschland. Sie lautete in Teilen wie folgt:

"3. Fuer Sonderaufgaben und Verhandlungen zum Ausgleich des Bedarfs an Aerzten, Krankenhaeusern, Medikamenten usw. zwischen dem militaerischen und dem zivilen Sektor des Sanitaets- und Gesundheitswesens bevollmaechtige ich Professor Dr. med. Karl Brandt, der nur mir personlich unterstellt ist und von mir unmittelbar Weisungen erhaelt.

4. Mein Bevollmaechtigter fuer das Sanitaets- und Gesundheitswesen ist ueber grundsuetzliche Vorgaenge im Wehrmachtssanitaetswesen und zivilen Gesundheitswesen laufend zu unterrichten. Er ist berechtigt, sich verantwortlich einzuschalten." 1)

Im selben Erlass wurden auch die Chefs fuer das Wehrmachtssanitaetswesen und das zivile Gesundheitswesen bestellt. Der Angeklagte Handloser wurde der Chef des Wehrmachtssanitaetswesens, waehrend Dr. Leonardo Conti, Staatssekretaer fuer Gesundheit und Reichsgesundheitsfuhrer, zum Chef des zivilen Gesundheitswesens ernannt wurde. Brandt war der Vorgesetzte sowohl von Handloser als auch von Conti, und hatte durch sie ueber das Sanitaetswesen der Armee, der Marine, der Luftwaffe, der Waffen-SS und das zivile Gesundheitswesen ausgedehnte Machtbefugnisse. Brandt stand an

1) NO-080, Ankl.Bew. 5, R. 93.

der Spitze der Machtpyramide. Er war niemandem als dem Fuehrer untergeordnet. Er war der Mann, der fuer den Fuehrer in medizinischen Dingen handelte. Die Verordnung ermachtigte Brandt "sich verantwortlich einzuschalten" und gab Anweisung, dass er ueber "grundsatzliche Vorgaenge" laufend zu unterrichten sei. Sicherlich koennte nichts grundsatzlicher sein, als eine Politik der Vornahme medizinischer Versuche, die die Folterung und den Tod unfreiwilliger Versuchspersonen in sich schlossen.

Am 5. September 1943 erliess Hitler einen zweiten Erlass, in dem er Brandt bevollmaechtigte, "zentral die Aufgaben und Interessen des gesamten Sanitaets- und Gesundheitswesens zusammenzufassen und weisungsgemaess zu steuern". 2)

2) NO-081, Ankl.Bew. 6, R.94.

(Seite 32 des Originals)

Der Befehl erklaerte ausdruecklich, dass sich Brandts Autoritaet auch auf das Gebiet medizinischer Wissenschaft und Forschung erstreckte. Kurz nach der Herausgabe dieses Erlasses wurde der Angeklagte Rostock von Brandt zum Chef des Amtes fuer Wissenschaft und Forschung mit Machtvollkommenheit auf diesem Gebiet ernannt.

Schliesslich erhob der Fuehrer am 25. August 1944 Brandt zum Reichskommissar fuer das Gesundheits- und Sanitaetswesen und erklaerte, dass in dieser Eigenschaft "sein Amt als hoechste Reichsbehoerde zu gelten habe". Brandts Amtstellung war demnach der eines Reichsministers gleichgestellt. Er war ermachtigt, "Weisungen an die Aemter und Organisationen des Staates, der Partei und der Wehrmacht zu erlassen, die sich mit den Fragen des Gesundheits- und Sanitaets-

wesens befassen". 1) Es ist klar, dass dieser Erlass erging, um einen Nachtkampf zwischen Brandt und Conti zu beenden. Gewiss gibt dieser Erlass Brandt nur einen gehobeneren Titel und bestaetigt aufs neue seine Vollmacht, die er bereits im Juli 1942 erhalten hatte. Brandt bezogte, dass er lediglich seine Stellung "staerkte". Einen Diensterlass, der von Keitel fuer Handloser als dem Chef des Wehrmachtssanitaetswesens zu einer Zeit, als Brandt noch Generalkommissar war, erlassen wurde, bestimmte, dass Handloser den "allgemeinen Vorschriften des Generalkommissars des Fuehrers fuer das Gesundheits- und Sanitaetswesens" unterworfen sei, und dass Brandt von "grundsuetzlichen Vorgaengen" auf dem Gebiete des Wehrmachtssanitaetswesens zu unterrichten sei. In einer vor der Verhandlung abgegebenen eidesstattlichen Erklaerung sagte Handloser aus, dass, nachdem er am 26. Juli 1942 Chef des Wehrmachtssanitaetswesens wurde, "Brandt mein direkter Vorgesetzter in medizinischen Angelegenheiten war". 2)

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- 1) NO-082, Ankl.Bow. 7, R. 95.
2) NO-443, Ankl.Bow. 9, R. 99.

(Seite 33 des Originals)

Schroeder sagte aus, "Karl Brandt, Handloser und Rostock wussten ueber die von der Luftwaffe durchgefuehrten medizinischen Forschungsarbeiten Bescheid". 1) Ausser seiner Stellung als General- und Reichskommissar des Gesundheits- und Sanitaetswesens, war Brandt auch noch Mitglied des Praesidialrates des Reichsforschungsrates, einer Organisation, die den verbrecherischen Experimenten finanzielle Hilfe lief.

Den zweiten Platz hat der Angeklagte Handloser inne, der fuer das Sanitaetswesen aller Zweige der Wehrmacht die hoechste Amtsstelle war. Anfangs 1942 wurde er zum

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- 1) NO-449, Ankl.Bow. 130, R. 474.

Heeres-sanitätsinspekteur und Armeearzt ernannt. Er bekleidete diese Ämter bis September 1944 und hatte in diesen Eigenschaften den Oberbefehl über das gesamte Heeres-sanitätswesen, das von den Abteilungen des Wehrmachtssanitätswesens bei weitem das grösste war.

(Seite 34 des Originals)

In seiner Eigenschaft als Heeres-sanitätsinspekteur hatte Handloser unter sich: die Beratenden Heeresärzte, die militär-ärztliche Akademie, die Fleckfieber- und Virusinstitute des OKW in Krakau und Lemberg und die Ärzteschule für Gebirgstruppen in St. Johann. Er stieg bis zum Rang eines Generaloberstabsarztes auf, dem höchsten militär-ärztlichen Rang.

Am 28. Juli 1942 wurde Handloser auf die neugeschaffene Stellung eines Chefs des Wehrmachtssanitätswesens befohrt. Dies geschah durch denselben Erlass, der Brandt, dem Handloser im militärischen Sektor und Conti im zivilen Sektor untergeordnet waren, zum Generalkommissar ernannte. Handloser wurde mit der Zusammenfassung der Wehrmachtssanitätswesen und der der Wehrmacht unterstellten oder angeschlossenen Formationen beauftragt, einschliesslich des Sanitätswesens der Waffen-SS. Vor diesem Erlass bestanden vier getrennte Sanitätsdienstabteilungen der Wehrmacht, nämlich bei dem Heer, der Luftwaffe, der Marine und der Waffen-SS, die alle unabhängig voneinander arbeiteten. Kraft dieses Erlasses wurde Handloser beauftragt, ihre Operationen zusammenzufassen und einheitlich zu steuern, und er war Keitel als dem Chef des Oberkommandos der Wehrmacht (OKW) direkt verantwortlich. Er hatte Gewalt über die Chefs des Sanitätswesens des Heeres, der Marine,

der Luftwaffe und Waffen-SS und aller im Rahmen der Wehrmacht eingesetzten Organisationen und Dienststellen, und ueber "alle wissenschaftlichen medizinischen Institute, Akademien und andere medizinische Institute im Dienste der Wehrmacht und der Waffen-SS". 1) Er war der Ratgeber des Chefs des Oberkommandos der Wehrmacht in allen das Wehrmachtssanitätswesen und ihre gesundheitliche Leitung bezueglichen Fragen. Auf dem Gebiete der aerztlichen Wissenschaft bestanden seine Pflichten darin, einheitliche Massnahmen auf dem Gebiete der Gesundheitsfuehrung, der Seuchenforschung und -bekaempfung und

1) WO-227, Ankl.Bew. 11, R. 101.

(Seite 35 des Originals)

in allen aerztlichen Dingen, die eine einheitliche Regelung innerhalb der Wehrmacht erforderten, durchzufuehren, und weiterhin in der Auswertung medizinischer Erfahrungen.

Eines der hauptsaechlichen Mittel, die von dem Angeklagten Handloser bei der Zusammenfassung der wissenschaftlichen Forschung verwandt wurden, war die gemeinsame Sitzung der Beratenden Aerzte der vier Wehrmachtzweige. Bei der Zweiten Versammlung der Beratenden Aerzte Ost in der militaer-aerztlichen Akademie im Dezember 1942 erlaeuterte Handloser selbst die Aufgabe des Chefs des Wehrmachtssanitätsdienstes in der Vereinheitlichung der medizinischen Forschung. Er sagte in einer Ansprache an eine Vollversammlung:

"Anforderungen und Ausweitungen dieses totalen Krieges, sowie das Verhaeltnis zwischen Bedarf und Bestand personeller wie materieller Art bedingen auch auf militaerischem und sanitaetsdienstlichem Gebiet Massnahmen, die der Vereinheitlichung und der einheitlichen Steuerung dienen. Es heisst nicht 'getrennt marschieren und vereint schlagen', sondern es muss auf allen Gebieten von vornherein vereint marschiert und geschlagen werden.

"Auf den militaerischen Sektor bezogen ist hieraus auf unserem Gebiet das 'Wehrmacht-Sanitaetswesen' und damit der 'Chef des Wehrmacht-Sanitaetswesens' entstanden. Nicht nur in personellen und materiellen Dingen - soweit das ueberhaupt moeglich ist im Hinblick auf unbedingt zu beruecksichtigende Sondergebiete und Sonderaufgaben - sondern auch hinsichtlich aerztlich-wissenschaftlicher Ausbildung und Forschung, soll und muss der Weg in Wehrmacht-Sanitaetswesen weitgehendst ein gemeinsamer sein.

"Demonstrierend hat auch der Teilnehmerkreis dieser hiermit von mir eroeffneten 2. Arbeitstagung Ost eine andere Zusammensetzung, als die 1. Arbeitstagung im Mai dieses Jahres. Damals war es eine Tagung des Heeres, heute sind die drei Wehrmachtteile, die Waffen-SS und Polizei, der Arbeitsdienst und die Organisation Todt beteiligt und vereinigt.

"Sie werden mir sicherlich gestatten, dass ich ^{also} Sie mit einem gemeinsamen Willkommensgruss begruesse und mit dem aufrichtigen Wunsche, dass unserer gemeinsamen Arbeit der erhoffte, gemeinsame Erfolg beschieden sei. Einen besonderen Gruss moechte ich aber an den Reichsgesundheitsfuhrer, Herrn Staatssekretaer Conti, richten, in dessen Hand die zentrale Steuerung des Sanitaetswesens im zivilen Sektor gelegt ist. Ich sehe in seiner Anwesenheit nicht nur das Interesse fuer unsere Arbeitsthemen, sondern den Ausdruck seiner Verbundenheit mit dem Wehrmacht-Sanitaetswesen und seines Verstaendnisses fuer die besonderen Belange der Wehrmacht im Felde wie in der Heimat. Ich brauche nicht zu betonen, dass wir eins sind in der Erkenntnis der Notwendigkeit, den Kaempfer darueber versichert und beruhigt zu halten, dass er sich um die gesundheitliche Betreuung der Heimat, im Rahmen des im Kriege ueberhaupt Moeglichen, keine Sorgen zu machen braucht." 1)

1) NO-922, Ankl.Bew. 435, R. 2050.

(Seite 36 des Originals)

Auf der Vierten Versammlung der Beratenden Aerzte im Mai 1944 betonte der Angeklagte Brandt wiederum die Wichtigkeit von Handlosers Stellung, indem er sagte:

"Herr Generaloberstabsarzt Handloser, Sie selbst, Soldat und Arzt zugleich, tragen dabei die Verantwortung fuer Einsatz und Leistung unserer Sanitaetsoffiziere.

"Ich glaube, und es ist wohl die einzige Erwartung aller Beteiligten, dass die heute hier in Hohenlychen beginnenden Besprechungen zum Nutzen unserer Soldaten gefuehrt werden. Die bisherigen Leistungen Ihrer Herren, Herr Generaloberstabsarzt, sprechen eindeutig dafuer, und deren Einsatzbereitschaft erfuehlt uns alle mit Stolz und - ich kann das wohl auch sagen - mit Zuversicht.

"Es ist gut, diese Dinge einfach so zu benennen und zu betrachten, wie sie sind. Diese Tagung ist sichtbarer Ausdruck dafuer - sie ist es und soll es und muss es auch in jeder Beziehung sein; Die Beratenden Aerzte finden sich um ihren Sanitaetshof. - Sohe ich hier diese Reihen, so sind Sie, Herr Generaloberstabsarzt Handloser, zu benennen. Fachmaenner der Medizin mit bestem und geschultestem Spezialwissen stehen Ihnen fuer die Betreuung der Soldaten zur Verfuegung. In einer Wechselwirkung zwischen Ihnen und Ihren Herren werden die Probleme unseres aerztlichen Wissens und Koennens lebendig gehalten." 2)

Dies war keine Lobrede auf einen Mann ohne Macht und Einfluss. Wenn Handloser nicht fuer die vom Sanitaetswesen der Wehrmacht und besonders der Arme und Luftwaffe begangenen Verbrechen verantwortlich ist, dann ist keiner verantwortlich.

Auf dem Platz Nr. 3 sehen wir den Angeklagten Rostock, der als Brandts spezieller Vertreter mit der Aufgabe betraut war, "zentral die Aufgaben und Interessen des gesamten Sanitaets- und Gesundheitswesens" auf dem Gebiet der Wissenschaft und Forschung "zusammenzufassen und weisungsgemaess zu steuern". Schon vor seiner Ernennung zu diesem

2) NO-924, Ankl.Bow. 437, R. 2057.

(Seite 36 des Originals, Forts.)

Am 1. Herbst 1943 war Rostock einer der verantwortlichen Führer des deutschen Arztstandes. Im Jahre 1942 wurde er zum Dekan der medizinischen Fakultät an der Universität Berlin ernannt. Im selben Jahr wurde er als Armee-Sanitätsinspekteur "Beratender Chirurg" bei Brandt. Er stieg zum Range eines Generalarztes auf. Als Chef des Amtes fuer Wissenschaft und Forschung unter Brandt war Rostocks Aufgabe die Zusammenfassung der wissenschaftlichen Forschung in Deutschland. Er empfing von den verschiedenen Amtsstellen in Deutschland Berichte ueber die Verteilung von Forschungsaufgaben und bestimmte, welche als "dringlich" betrachtet werden sollten. Er war auch Brandts Vertreter im Reichsforschungsrat.

Auf dem Platz Nr. 4 sehen wir den Angeklagten Schroeder, der vom 1. Januar 1944 bis zum Schluss Chef des Sanitätswesens der Luftwaffe war. Von 1935 bis Februar 1940 war Schroeder Stabschef seines Vorgaengers Erich Hippke als Luftwaffensanitätsinspekteur. Von Februar 1940 bis Januar 1944 war er Luftflottenarzt der Luftflotte II und er setzte dann Hippke als Chef des Sanitätswesens der Luftwaffe ein.

(Seite 37 des Originals)

Zu gleicher Zeit wurde er zum Range eines Generaloberstabsarztes befördert. Als Chef des Sanitätswesens der Luftwaffe waren ihm alle Sanitätsoffiziere der deutschen Luftwaffentrostkräfte unterstellt. Seine Stellung und Verantwortlichkeit ist klar und unzweideutig.

Auf dem Platz Nr. 5 sitzt der Angeklagte Genzken, der als Chef des Sanitätswesens der Waffen-SS einer der höchsten Sanitätsoffiziere in der SS war. Er trat der NSDAP im Jahre 1926 bei, und im Jahre 1936 wurde er aktiv bei der

SS im Sanitaetsamt der SS-Verfuegungstruppen, die spaeter die Waffen-SS wurde. Im Fruhjahr 1937 wurde das Sanitaetsamt der SS erweitert und in zwei Abteilungen aufgeteilt. Genzken wurde Direktor der Abteilung, die mit der Besorgung von medizinischen Geraetschaften und mit der Ueberwachung des aerztlichen Personals in den Konzentrationslagern be-
traut war. In dieser Eigenschaft war er der aerztliche Be-
rater des beruechtigten Eicke, des Vorgaengers Rohls, als Kommandeur aller Konzentrationslager. Sachsenhausen, Dachau, Buchenwald, Mauthausen, Flossenbuerg, Neuengamme u.a. standen unter der aerztlichen Oberaufsicht Genzkens. Ueber die systematische Bedrueckung und Verfolgung der ungluecklichen Gefangenen in diesen Anstalten koennen wenig Leute besser unterrichtet gewesen sein.

Im Mai 1940 wurde Genzken Chef des Sanitaetsamtes der Waffen-SS im Fuehrungstab der SS, mit dem Range eines Oberfuhrers. Der SS-Fuehrungstab unterstand dem Gruppenfuhrer Hans Juettner und war eines der zwouelf Hauptaemter des Oberkommandos der SS. Waehrend Juettner Genzkens militaerischer Vorgesetzter war, war Reichsarzt-SS Grawitz, fuer den er bei vielen Gelegenheiten als Vertreter wirkte, sein technischer oder medizinischer Vorgesetzter. Im Jahre 1942 wurde seine Amtsstellung "Chef des Sanitaetswesens der Waffen-SS, Abteilung D des SS-Fuehrungstabes" genannt.

Er erreichte den Rang eines Gruppenführers in der SS und eines Generalleutnants der Waffen-SS.

Unter den Genzken unterstehenden Ämtern war das chemische und pharmazeutische Amt unter Blumentruter und das Amt fuer Hygiene unter dem Angeklagten Mrugowsky. Mrugowsky wurde im Jahre 1940 Genzken Amt als Hygieniker zugewiesen und war gleichzeitig Chef des Hygiene-Institutes der Waffen-SS, das wiederum Genzken unterstand. Am 1. September 1943 wurde der Sanitätsdienst der SS reorganisiert, und neben anderen Dingen wurden Blumentruter, Mrugowsky und das Hygieneinstitut der Waffen-SS dem Amt des Reichsarztes fuer die SS, Grawitz, zugewiesen. In der Folgezeit war es eher Grawitz als Genzken direkt unterstellt.

Und dann haben wir hier den Angeklagten Blome, Gruppenführer in der SA, Stellv. Reichsgesundheitsführer, Stellvertretender Führer der Reichsarztammer und des Nationalsozialistischen Aerztebundes, Vertreter der 1. Abteilung Medizinisches Studium, Generalbevollmächtigter im Reichsforschungsrat und Chef der Forschung fuer bakteriologische Kriegsführung. Als enger Mitarbeiter Contis kann er auf der Liste der Mächtigen nicht ungenannt bleiben. Conti war die höchste Autorität auf dem Gebiete des zivilen Gesundheitswesens. Der von Hitler gezeichnete Erlass vom 28. Juli 1942 betreffend die Reorganisation des Aerztesdienstes beschreibt die Position Contis wie folgt:

"Fuer den Bereich des zivilen Gesundheitswesens ist fuer alle einheitlich zu treffenden Massnahmen der Staatssekretär im Reichsministerium des Innern und Reichsgesundheitsführer Dr. Conti verantwortlich. Ihm stehen hierfuer die zuständigen Abteilungen der Obersten Reichsbehörden und ihre nachgeordneten Dienststellen zur Verfügung." 1

Es gab kein einziges medizinisches Problem, das nicht an das Reichsgesundheitsamt der NSDAP und an die Reichsarztammer gelangte, der alle Aerzte in Deutschland unterstanden mit Ausnahme derjenigen, die aktiven Dienst in Heere und in der SS leisteten. Als Mitglied des Reichsforschungsrates hatte Blome persönliche Verbindung mit Plänen und Unternehmungen, die verbrecherische medizinische Versuche zum Gegenstand hatten.

1) NO-380, Ank. Nr. 5, R. 93

MILITÄRGERICHTSHOF NR. I

FALL Nr. 1

ZUSAMMENFASSENDE SCHLUSSBERICHT
DER VERBÜNDETEN STAATEN VON AMERIKA

- ge on -

Hermann BECKER-FREISING

Nürnberg,
16. Juni 1947

James M. McManey
Alexander C. Hardy
Arnost Berlik-Wochwald
Esther Jane Johnson

Fuer:

Gelford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War
Grimes



EINFUEHRUNG.

Unter Punkt I der Anklageschrift wird im wesentlichen die Anklage erhoben, dass der Angeklagte Hermann Becker-Freysong sich mit anderen Personen im Verfolge eines gemeinsamen Vorhabens zu einer Verschwörung und Uebereinkunft zusammengefunden hat, um medizinische Experimente an Menschen ohne deren Zustimmung vorzunehmen; unter Punkt II und III, (Kriegsvorbereiten bzw. Verbrechen gegen die Menschlichkeit), dass er Haupttäter, Teilnehmer, Anstifter, Verschubleistender gewesen sei, seine Zustimmung gegeben und mit Plänen und Unternehmungen in Verbindung gestanden hat, die die Durchführung medizinischer Experimente an Menschen ohne Zustimmung der betreffenden zum Gegenstand hatten. Dem Angeklagten Becker-Freysong wird besonders Verantwortlichkeit fuer und Teilnahme an den Hohen-, Kaelte-, Meerwasser- und Plockfieber-Experimenten zur Last gelegt.

Um die Sachlage zu vereinfachen und das Verfahren zu beschleunigen hat die Anklagebehörde die Beschuldigung der Teilnahme an den Gelbfieber-, Pocken-, Paratyphus A und B, Malaria-, Diphtherie-, und Sulfenamid-Experimenten zurueckgezogen, und sie zieht hiermit die Beschuldigung bezueglich der Epidemischen Gelbsucht-Experimente zurueck.

I. Stellung und Verantwortung.

Der Angeklagte Becker-Freysong trat im Mai 1933 der NSDAP bei. Er war auch Mitglied des NSKK (Nationalsozialistisches Kraftfahrer-Korps) und des NSFK (Nationalsozialistisches Flieger-Korps). (Becker-Freysong, R. 7780).

Nach Vollendung seiner medizinischen Studien in Heidelberg, Innsbruck und Berlin wurde der Angeklagte Assistenzarzt an der Universitätsklinik in Berlin. Im August 1938 wurde er Assistent am Forschungsinstitut fuer Luftfahrtmedizin des Reichsluftfahrtministeriums in Berlin unter Professor Strughold. Schliesslich erhielt er seinen Dr.med.habil. im Jahre 1944 in Berlin und im Jahre 1945 wurde er als Dozent fuer

innere und Luftfahrtmedizin berufen (Becker-Freyseng, R.7778).

Im Sommer 1940 trat er der
- Seite 2 des Originals -

Luftwaffe als Unterarzt bei und erhielt schliesslich den Rang eines Stabsarztes. Zuerst trat er bei der Luftfahrtprüfungsstelle Dienst und im August 1941 wurde er zur Sanitätsinspektion der Luftwaffe als Hilfsreferent im Referat fuer Luftfahrtmedizin versetzt. Als Hilfsreferent von Professor Anthony, dem Referenten im Referat fuer Luftfahrtmedizin, blieb er in dieser Stellung bis zum Mai 1944. Im Mai 1944 wurde er Chef der Abteilung fuer Luftfahrtmedizin und hatte diese Stellung bis zum 8. Maerz 1945 inne.

Im Sanitätswesen der Luftwaffe gab es 25 Referate. Ein Referat war eine Abteilung innerhalb der Luftwaffenorganisation, die spezielle Gegenstaende behandelte; z.B. gab es ein Referat fuer Luftfahrtmedizin, ein Referat fuer Hygiene, ein Referat fuer interne Medizin usw. Wie wir schon erwachnt haben, wurde das Referat fuer Luftfahrtmedizin zuerst von Professor Anthony geleitet, mit Becker-Freyseng als seinem Stellvertreter und spaeter von Becker-Freyseng selbst. (Becker-Freyseng, R.7779, 7809, 8087; NO-669, Ankl.Bew.16, R.110).

Becker-Freyseng bezeugte, dass die Stellung eines Referenten die Fragen der technischen und materiellen Vorbereitungen behandelte, waehrend der beratende Arzt nur sachverstaendige Urteile fuer den Chef ausarbeitete. Wenn die Inspektion sich mit einem wissenschaftlichen Vorschlag zu befassen hatte, holte das Referat die Meinung oder die Einstellung des beratenden Arztes ein und berichtete dem Inspekteur. Auch der Referent gab seine Meinung hinsichtlich solcher Vorschlaege ab. Um es deutlicher auszudruecken, waehrend von dem beratenden Arzt eine persoenliche Meinung erwartet wurde, sollte der Referent eine materielle Meinung abgeben. (Becker-Freyseng, R. 7811-2).

Es ist notwendig, sich mit der Arbeit des Referats fuer Luftfahrtmedizin zu befassen. Die Fragen, fuer die dieses Referat

verantwortlich war, waren erstens, die Wirkungen der Beschleunigung und zweitens, die Wirkungen grosser Höhen, oder in anderen Worten die Folgen von Sauerstoffmangel. Diese zwei Gebiete waren in erster Linie die klassischen Gebiete der Luftfahrtmedizin, aber im Verlauf des Krieges entstanden viele neue Probleme, d.h. allgemeine physiologische Fragen bezüglich Atmung und Zirkulation, Fragen bezüglich allgemeiner und spezieller Pathologie als Folge von Flugzeugunfällen in grossen Höhen, pharmazeutische Fragen, Auswahl und Ausbildung von Fliegern, Notfälle auf hoher See, in der Wüste und in den Bergen und die Entwicklung von Geräten, zur Steuerung von Flugzeugen im Hinblick auf physiologische und psychologische Gesichtspunkte. Ausserdem entstand während des Luftkrieges auch das Problem der Einwirkung von Kohlen-Monoxiden und von Hitze, und das Referat musste sich mit der Konstruktion und Modernisierung von Unterdruckkammern befassen, der Erziehung von Flugärzten, und mit dem Studium der Spezialliteratur. In einem Wort Luftfahrtmedizin umfasste alle Gebiete der Medizin im Zusammenhang mit dem Betrieb von Flugzeugen (Becker-Freysong, R. 7824).

Im Amt fuer Luftfahrtmedizin hatten während der Zeit von 1941 bis Kriegsende nicht mehr als 2 Personen die Leitung, naemlich Professor Anthony und der angeklagte Becker-Freysong (Becker-Freysong, R. 8087). Becker-Freysong hat in den auf der Anklagebank angestimmten Chor der Selbstheruntersetzung mit eingestimmt und moechte den Gerichtshof glauben machen, dass er tatsaechlich keine Autoritaet hatte und dass Anthony sein Arbeitsgebiet beträchtlich einschränkte. Das ist ein reductio ad absurdum. Man muesste daraus schliessen, dass, sooft Anthony das Buero fuer eine laengere Zeit verliess, was er manchmal tat, jede Taetigkeit aufhoerte, und das Buero buchstaeblich abgeschlossen war. Ausser Anthony und Becker-Freysong gab es im Referat

fuer Luftfahrtmedizin nur Buchangestellte und zu keiner Zeit ueberstieg die Anzahl des Personals vier Personen (Becker-Freysong, R. 8088).

Der Angeklagte Schroeder sagte aus, dass Becker-Freysong sein Berater in Luftfahrtmedizin war, dass "er am besten wusste, was im allgemeinen auf dem Gebiet der Luftfahrtmedizin vor sich ging", dass er ueber die Forschungen, die auf dem Gebiete der Luftfahrtmedizin von der Luftwaffe durchgefuehrt wurden, im Bilde war, dass er alle Berichte ueber diese Forschungen erhielt und studierte. Becker-Freysong war verantwortlich fuer die Sammlung und Auswertung aller Ergebnisse der auf dem Gebiet der Luftfahrtmedizin durchgefuehrten Forschungsarbeit. Er entschied, ob Geldzuschuesse gewahrt werden sollten. Schroeder sagte, er war sein wissenschaftlicher Berater. (Schroeder, R. 3606-7).

Das Referat fuer Luftfahrtmedizin befasste sich nicht nur mit Problemen auf dem Gebiet der Luftfahrtmedizin, sondern vorab auch andere von der Luftwaffe veranlasste Forschungsauftraege. Der Angeklagte Schroeder erklarte

"Aus buerotechnischen Gruenden wurden alle Forschungsauftraege in dem Referat von Becker-Freysong bearbeitet. Das ist aber nicht so zu verstehen, dass die Auftraege, die nichts mit Luftfahrtmedizin zu tun hatten, also wie z.B. aus dem Gebiet der Hygiene oder der Zahnfuersorge oder anderen Dingen nicht auch sachlich in dem Referat bearbeitet wurden, sondern nur bueromaessig, wie ich gestern schon ausfuehrte, es gehoerten dazu, um solche Auftraege fertig zu machen, gewisse Formalien. Und diese Dinge waren genau bekannt in dem Referat von Dr. Freysong. Und da die Masse der Auftraege aus dem Bereich der Luftfahrtmedizin war, hatte man diesem Referat schon zu Zeiten meines Vorgaengers die bueromaessige Bearbeitung aller Auftraege ueberlassen. Es war aber aus den Entwuerfen, die im Referat verblieben, jederzeit ersichtlich, welche Dienststellen meines Amtes nun die tatsaechlichen Bearbeiter der wissenschaftlichen Frage waren." (Schroeder, R. 3618-9).

Die Aussage von Schroeder beweist also, dass die Abteilung fuer Luftfahrtmedizin fuer die Gleichrichtung aller Forschungsauftraege innerhalb der Luftwaffe verantwortlich war. Alle Auftraege wurden von diesem Amt ausgegeben.

Becker-Freysong war in der Lage, Berichte durchzulassen und sich alle Kenntnis ueber die Forschungsarbeiten zu verschaffen, an der die Luftwaffe interessiert war. Tatsaechlich gab Becker-Freysong diese Kontrolle in anderen Gebieten zu. Er erklarte

"Ich sagte, dass das Referat Luftfahrtmedizin ausser den rund 95% luftfahrtmedizinischen Forschungsauftraegen auch noch das rein organisatorische und formale fuer die uebrigen 5% Forschungsauftraege miterledigte, die nicht aus der Luftfahrtmedizin, sondern aus anderen Gebieten stammten." (Becker-Freysong, R. 8089).

Becker-Freysong versuchte, seine Verantwortlichkeit einzuschaerfen, indem er aussagte, dass die Forschungsauftraege nur vom Chef der Sanitaetsinspektion personally ausgehen wurden. (Becker-Freysong, R. 8090). Dass der Chef des Sanitaetswesens letzten Endes verantwortlich war, ist selbstverstaendlich, aber es ist ganz klar, dass die Hauptarbeit von Anthony und Becker-Freysong geleistet wurde. Der Angeklagte Woltz sagte, dass sein Institut fuer Luftfahrtmedizin in Muenchen dem Luftgau 8 in disziplinarischer Hinsicht und dem Amt von Anthony, und spaeter Becker-Freysong in wissenschaftlicher Hinsicht unterstellt war. Hierdurch ist nachgewiesen, dass der Referent fuer Luftfahrtmedizin im Auftrag des Chefs des Sanitaetswesens der Luftwaffe die Forschungsarbeiten gleichzurichten hatte.

Um der Taetigkeit des Referats fuer Luftfahrtmedizin nachzugehen, ist es notwendig, das Ikonzeichen dieses Amtes klarzustellen. Die Buchstaben-Bezeichnung fuer das Referat Luftfahrtmedizin war bis zum Winter 1942/3 "2II R". Diese Bezeichnung bedeutete "Abteilung 2 Gruppe II Referat R". Im Winter 1942/3 wurde die Buchstabenbezeichnung des Referats Luftfahrtmedizin in "2 F" umgeaendert und blieb "2 F" bis ungefaehr Januar 1944 als es "2 II A" benannt wurde. Die Arbeit des Amtes blieb waehrend dieser ganzen Zeit die gleiche und die andere Buchstabenbezeichnung spiegelte lediglich eine interne Reorganisation des Sanitaetswesens der Luftwaffe wieder. (NO-448, Ankl.Bow.81, R. 235).

Ausser den obigen Buchstaben oder Aktenzeichen hatte das Referat fuer Luftfahrtmedizin eine Registrationsnummer, "55". Wir werden spaeter in diesem Schriftsatz bemerken, dass dieses Akten- oder Buchstabenzeichen im Zusammenhang mit den Hehen-, Kaloto, Meerwasser-, epidemischen Gelbsucht- und Flockfloberversuchen sehr stark in Erscheinung treten werden.

Man wird verstehen, dass bei der medizinischen Forschung eine gute Gleichrichtung notwendig war. Waehrend des Krieges war die Luftwaffe in einer Lage, wo die Verwendung von Hilfsmitteln und Materialien, von Aerzten und Wissenschaftlern, und anderem Forschungszubehoer sorgfaeltig zugeteilt werden musste. Gleichschaltung war notwendig, um Doppelarbeit zu vermeiden. Ausser dem Referat in der Luftwaffen-Sanitaetsinspektion fuer die verschiedenen Gebiete der Medizin gab es auch ein Haushaltsreferat. Aber da dieses Buero nicht mit allen Forschungsauftraegen der Luftwaffe vertraut war, war es nicht in der Lage, die Zuteilung der zur Ausfuehrung der verschiedenen Aufgaben noetigen Geldmittel vorzunehmen. Becker-Freyseng machte deshalb dem Haushaltsbuero gegenueber die notwendigen Empfehlungen, wenn ein Problem auftauchte, hinsichtlich Geldmittel fuer Forschungszwecke. Er sagte aus:

"Die Bewilligung eines Forschungsauftrages lag allein in der Zustaendigkeit des Chef bzw. vorher, der Sanitaetsinspektion. Die Aufgabe des Referats bestand darin, die notwendigen Unterlagen fuer diese Entscheidung zu liefern." (Becker-Freyseng, R. 8109).

Becker-Freyseng stellte sich auf den Standpunkt, dass der Chef des Luftwaffen-Sanitaetsdienstes, fruher Wippke und jetzt der Angeklagte Schroeder, die einzige Person war, die die Zuweisung von Geldmitteln zur Verwendung fuer Forschungszwecke genehmigen konnte. Waehrend dies zweifellos wahr sein mag, so wurden doch die Unterlagen, auf Grund welcher er seine Entscheidung traf, in Becker-Freysengs Buero ausgearbeitet, wie er selbst zugibt.

II. Persönliche Teilnahme an verbrecherischen Experimenten.A. Höhenexperimente (Anklageschrift, Ziffer 6 (A)).

Die Höhenexperimente sind im Einzelnen im Schriftsatz der Anklagebehörde gegen Ruff, Romberg und Woltz beschrieben.

Becker-Freysing's wissenschaftliches Wissen auf dem Gebiete der Höhenforschung ist beträchtlich. Er arbeitete im Jahre 1938 und 1939 an Zeitforschungs-Experimenten in Höhen bis zu 9000 m und seine Arbeit im Jahre 1940 beschäftigte sich mit Fragen bezüglich der Anpassung an grosse Höhen. (Becker-Freysing, R. 7784).

Die in Dachau vorgenommenen Höhenversuche fallen voll und ganz in das Gebiet der Luftfahrtmedizin, fuer das Anthony und Becker-Freysing verantwortlich waren. Becker-Freysing will aber das Gericht glauben machen, dass er vor der Durchführung dieser Experimente nichts von ihnen wusste. Er behauptet, er habe zuerst von den von Ruff, Romberg und Rascher vorgenommenen Höhenversuchen gehört, als er Mitteilung erhielt, dass ein Film ueber diese Versuche in Milchs Dienststelle vorgeführt werden sollte. Dies war im September 1942. (R. 8114). Es liegt auf der Hand, dass ein Experiment in dem in Dachau durchgeführten Ausmass unmöglich ohne die zusammengefassten Bemuehungen einer grossen Personengruppe durchgeführt werden konnten und es ist ganz klar, dass die Abteilung fuer Luftwaffenmedizin fuer alle noetigen Massnahmen verantwortlich war. Bevor die Experimente vorgenommen werden konnten, musste ein Forschungsauftrag erteilt werden, Geldmittel mussten zur Finanzierung der Experimente angewiesen werden. Alle Arten von Einrichtungen wie z.B. die Höhenkammer, Elektro-Kardiographen und dergl. mussten bereitgestellt werden. Dies war eben die Funktion der Abteilung fuer Luftwaffenmedizin, sich dieser Probleme anzunehmen. Die Höhenversuche begannen nicht am 22. Februar 1942 im vollen Umfange ohne beträchtliche Vorbereitungen und Bereitstellung von Einrichtungen fuer diese Versuche. Nahezu ein Jahr vor

vor ihrer Vornahme waren sie der Gegenstand von Erörterungen und es ist laecherlich, auch nur in Erwaeugung zu ziehen, dass der stellvertretende Leiter

- Seite 8 des Originals -

der Abteilung fuer Luftfahrtmedizin nicht darueber informiert war und diese Experimente nicht tatkraeftig unterstuetzte. Wenn man Becker-Freyseng glauben wollte, wuerde das bedeuten, dass man zum Schluss kommt, dass niemand ausser Hippke, Weltz, Ruff, Romberg und Rascher etwas im Zusammenhang mit diesen Experimenten wusste oder tat.

Die Verbringung der Unterdruckkammer nach Dachau ist ein gutes Beispiel fuer die Notwendigkeit der Bewaeltigung betraechtlicher Aufgaben seitens Becker-Freysengs Dienststelle. Er gab zu, dass eine seiner ersten Aufgaben in seiner Eigenschaft als Assistent in der Abteilung fuer Luftfahrtmedizin die Erfassung aller Unterdruckkammern war. (R. 7827). Sie befanden sich unter der zentralen Kontrolle dieser Dienststelle und die deutsche Luftwaffe hatte 1941 nur 4 transportable Kammern. Becker-Freyseng gab zu, dass die Druckkammern seiner Kontrolle unterlagen, behauptet aber im Hinblick auf die bei den kriminellen Hoechen-Experimenten verwandte, dass Ruff die Erlaubnis zur Ueberfuehrung der Kammer nach Dachau von Hippke direkt erhielt. (R. 8103-04). Was auch immer an dieser Behauptung wahrsein mag, so liegt es doch auf der Hand, dass Hippke nicht selbst dem Fahrer, der die Unterdruckkammer nach Dachau beförderte, den Befehl dazu gab. Nichts koennte eindeutiger sein, als dass Hippke an die Abteilung fuer Luftfahrtmedizin Instruktionen weitergegeben hat, die noetige Ausruestung fuer die Experimente in Dachau zu liefern und dass der tatsaechliche Transport der Kammer zusammen mit der Lieferung anderer notwendiger Ausruestungsgegenstaende von Anthony und Becker-Freyseng gehandhabt wurde. Die Kammer haette unmoeglich nach Dachau verbracht und dort 6 Monate lang ohne ihre Kenntnis verbleiben koennen.

Der Angeklagte Weltz sagte aus, er sei nicht in der Lage gewesen, die grundsaeztliche Erlaubnis zur Vornahme der Experimente in Dachau zu geben, da die noetigen Befehle von der Luftwaffen-Sanitaetsinspektion kommen mussten. (R. 7051-7178).

Soll man annehmen, dass Hippke persönlich die Forschungsaufträge für die Höhenexperimente ausschrieb und die Tatsache ihrer Vernahme vor seiner eigenen Abteilung geheimhielt, die doch geschaffen wurde, um sich gerade mit solchen Angelegenheiten zu befassen. Eine Liste von Forschungsaufträgen der Luftwaffe im Jahre 1944, von Becker-Freyseng unterzeichnet, zeigt auf dem Gebiet der Luftfahrtmedizin sechs Forschungsaufträge an Ruff. (NO-934, Ankl.Bow.458, R.3655). Im Jahre 1942 lagen die Dinge nicht anders. Im übrigen waren die Ergebnisse der Höhenversuche Becker-Freyseng bekannt. Diese Experimente wurden nicht als eine einfache akademische Studie ausgeführt, sondern damit sie der Luftwaffe wissenschaftlich wertvolle Informationen lieferten. Die Abteilung für Luftfahrtmedizin war gerade die Dienststelle, die alle solche Berichte erhielt, sie auswertete und auf Grund solcher Berichte die notwendigen Instruktionen erteilte. Der Zweck der Höhenexperimente war, die Möglichkeit der Rettung der von Flugzeugbesatzungen aus grossen Höhen festzustellen. Dies brachte solche Fragen mit sich wie z.B. die nötige Ausrüstung, mit der Flugzeugbesatzungen zur Erleichterung solcher Rettungen versehen werden sollten, wie z.B. automatische Fallschirmöffnung, Sauerstoff-Flaschen, warme Kleidung und dergartiges. Nichts konnte eindeutiger sein, als dass die Dienststelle von Anthony und Becker-Freyseng von den Höhenversuchen seit ihrem ersten Anfang Bescheid wusste, den Forschungsauftrag für sie erteilte und die zu ihrer Durchführung nötigen Einrichtungen und Geldmittel zur Verfügung stellte, bei der Vorbereitung des Berichts half und den Bericht zwecks späterer Verwendung bei der Entwicklung von Ausrüstungsgegenständen für die Luftwaffe auswertete.

B. Kälteversuche (Anklageschrift Ziff. 6 (B))

Die Kälteversuche sind im Einzelnen in dem Schriftsatz der Anklagebehörde gegen Sievers beschrieben.

Der Angeklagte Becker-Freyseng gab zu, dass er im Juni

1942 Akten sah, die Vorschlaege fuer eine in Nuernberg im Oktober zu haltende Kaeltetagung enthielten. (R. 7849). Bei einer spaeteren Gelegenheit sagte er:

"Ich bekam den Auftrag mit den Akten ueber die geplante Kaeltetagung zu Hippke herunter zu gehen. Natuerlich wollte Prof. Hippke Prof. Anthony sprechen, der aber nicht da war und an Stelle von Prof. Anthony sollte ich zu Prof. Hippke herunterkommen." (R. 8117).

Er sagte ferner aus, dass er in Anthonys Abwesenheit von Hippke zu einer Tagung gerufen wurde und dass Rascher bei einer solchen Tagung Verkehrungen zur Vernahme eines an Konzentrationslager-Haeftlingen durchzufuehrenden Versuchsprogramms traf. (R. 7815). Es war bei dieser Tagung zwischen Hippke, Rascher und Becker-Freyseng im Juli 1942 voellig klar, dass die Experimente in Dachau an Konzentrationslager-Haeftlingen vorgenommen werden sollten. Becker-Freyseng sagte, dass er bei dieser Gelegenheit Rascher zum ersten Male traf und dass er ihn erst bei der Nuernberger Kaeltetagung im Oktober 1942 wieder sah. (R. 7855, R. 8116).

Becker-Freyseng gab an, dass er nichts mit den tatsaechlichen Experimenten zu tun hatte und dass seine Beteiligung nach der Rascher-Hippke-Becker-Freyseng - Konferenz im Juli 1942 endete. (R. 7884-92).

Die Anklagebehoerde behauptet nicht, dass Becker-Freyseng die Experimente vernahm, sie unterstellt aber, dass der noetige Forschungsauftrag von der Abteilung fuer Luftfahrtmedizin erlassen wurde, dass die Geldmittel und Ausruestungsgegenstaende von dieser Dienststelle geliefert wurden und dass Becker-Freyseng von diesen Experimenten wusste, wie er auch tatsaechlich zugab.

Ein Brief von Anthony an Himmler, vom 8. Oktober 1942, betreffs die Nuernberger Kaeltetagung und den vorgeschlagenen Bericht ueber Holzloehners und Raschers Experimente beweist, dass der Forschungsauftrag von der Abteilung fuer Luftfahrtmedizin ausgehen wurde, in der Becker-Freyseng als Vertreter Anthonys taetig war. Der Brief lautet:

Betrifft: Forschungsauftrag ueber Abkuhlung.

Bezug: 1. D.R.d.L. und Ob.d.L. Ch.d.Lw.L.In.14 Az:
55 Nr. 20058/41 (2 II B) datiert: 24.2.42.
2. D.R.d.L. und Ob.d.L. Ch.d.Lw.L.In.14 Az:
21 Nr. 10909/42 (1 II A) datiert: 6.8.42.

An den Reichsfuehrer SS:

Die Inspektion des Sanitaetswesens der Luftwaffe hat dem Stabsarzt Prof. Dr. Holzloehner mit o.a. Bezug vom 24.2.42 einen Forschungsauftrag zur Bearbeitung folgender Frage erteilt:

"Die Wirkung der Abkuhlung auf den Warmblueter."

Auf Vorschlag von Stabsarzt Dr. Rascher wurden entsprechende Untersuchungen auf den Menschen ausgedehnt und im Einvernehmen mit Reichsfuehrer SS geeignete Untersuchungs-moeglichkeiten der SS in Anspruch genommen.

Zur Durchfuehrung der Untersuchungen wurde eine Versuchsgruppe "Seenot" zusammengestellt, bestehend aus Prof. Dr. Holzloehner als Leiter und Stabsarzt Dr. Rascher und Dr. Finke.

Der Leiter dieser Versuchsgruppe hat gemeldet, dass die Untersuchungen abgeschlossen sind.

Es ist beabsichtigt, die Versuchsgruppe bis spaetestens 15.10.42 aufzuloesen.

Die Versuchsprotokolle und ein ausfuehrlicher Bericht werden durch Stabsarzt Dr. Rascher dem Reichsfuehrer SS vorgelegt. Es wird geboten, die Originale oder Abschriften des Berichtes und der Protokolle der Inspektion des Sanitaetswesens der Luftwaffe zur Verfuegung zu stellen.

Es ist beabsichtigt, die Ergebnisse auszugsweise Sachbearbeitern anlaesslich einer Besprechung, die am 26. und 27. 10. 1942 in Nuernberg stattfindet, zugaenglich zu machen. Die Tagesordnung der Besprechung wird als Anlage beigefuegt." (MO-286, Ankl.Bow. 88, R. 248).

Die Verweise in dem Forschungsauftrag auf "2II B" und "SS" be- weisen, dass der Auftrag aus dem Institut fuer Luftfahrtmedi- zin stammte, in dem Becker-Freyseng arbeitete. Ihr Interesse an Kaelteproblemen begann schon im Februar 1942 mit dem Auf- trag an Holzloehner. Sogar bevor die Hoehen-

versuche noch beendet waren, wurde die Forschungsgruppe durch die Einbeziehung von Finke und Rascher vergrössert. Man beachte auch den zweiten Auftrag, der am 6. August 1942 ausgereicht wurde. Dieses Dokument beweist schlussig, dass Becker-Freysengs Dienststelle von allem Anfang an die verbrecherischen Kaelteversuche unterstützte.

Die in Nuernberg am 26. und 27. Oktober 1942 abgehaltene Kaelte-Tagung der Luftwaffe, bei der Holzlochner und Rascher ueber die verbrecherischen Kaelteversuche Bericht erstatteten, wurde von Anthony und Becker-Freyseng im Institut fuer Luftfahrtmedizin einberufen und vorbereitet. Anthony fuehrte bei der Tagung den Vorsitz. Hinsichtlich seiner Taetigkeit in Verbindung mit solchen Tagungen sagte Becker-Freyseng aus, dass "Ich alle Tagungen, die in Anthonys Referat stattfanden zu organisieren hatte. Das ist eine ziemliche Arbeit, weil 80 oder 90 Wissenschaftler sprachen, die in zwei Tagen ihre Papiere lesen wollten." (R. 7894). Er fuehrte weiter aus, dass: "die Vorbereitung der Tagung lag allein und zwar nicht nur bei dieser Tagung, sondern bei saemtlichen 12 Tagungen, die die Luftwaffe in dieser Art durchgefuehrt hat, beim Referenten, weil er immer die Verhandlungen fuehren musste. Ich war mit organisatorischen Aufgaben betraut, z.Teil, wie ich auch spaeter 1944, einen anderen Herrn mit solchen organisatorischen Aufgaben beauftragen liess. (R. 8121). Becker-Freyseng musste natuerlich zugeben, dass er der Tagung im Oktober 1942 beiwohnte und die von Holzlochner und Rascher gehaltenen Vertraege gehoert hatte. (NO-401, Ankl.Bow. 93, R. 309). Er stellt sich aber auf den unhaltbaren Standpunkt, dass aus diesem Bericht nicht eindeutig hervorging, dass die Ergebnisse durch Experimente an Menschen erzielt wurden, sondern dass man hatte annehmen koennen, dass die Versuche an Personen vorgenommen worden seien, die aus Seerett gerettet worden waren. Dies stellt fuer Becker-Freyseng kaum eine Verteidigung dar, da er, wie schon ausgefuehrt, davon wusste

dass die Kaelteversuche auf Grund der Besprechung, die er mit Hippke und Rascher im Juni 1942 hatte, an Konzentrationslager-Haeftlingen durchgefuehrt werden sollten. Aus dem unter der Leitung des Instituts fuer Luftfahrtmedizin vorbereiteten und auf dieser Kaelteagung gehaltenen Vortrag geht gewiss eindeutig hervor, dass Holzlochner und Rascher ueber Experimente berichteten, nicht ueber Beobachtungen im Felde. Es ist etwas schwierig sich vorzustellen, wie man die Rektal- und Magentemperatur eines Fliegers in Soenot thermo-olektrisch messen konnte. So etwas konnte nur im Vorfolge sorgfaeltig geplanter und durchgefuehrter Experimente getan werden. Im uebrigen spricht die Zusammenfassung von Raschers Vortrag in dem Bericht ueber Experimente, wo der Nacken allein mit Eiswasser gekuehlt wurde. So etwas waere absolut unmoeeglich im Falle von Beobachtungen, die an einem Flieger angestellt wurden, der ueber dem Ozean zum Abspringen gezwungen ist. Die Aeusserungen der Tagungs-Teilnehmer ueber diese Vortraege lassen es als vollkommen eindeutig erscheinen, dass jedermann verstand, dass die Berichte, Experimente an Menschen betrafen. Der Zeuge Lutz, der dieser Tagung bei-wohnte, sagte aus, dass Holzlochners und Raschers Berichte eine Sensation bei der Tagung hervorriefen und dass es ganz klar gemacht wurde, dass die Versuche an Konzentrationslager-Haeftlingen vorgenommen worden seien und Todesfaelle vorgekommen seien. (Lutz R. 272).

Kaelteprobleme fielen im vollen Umfange in die Zustaeendigkeit des Instituts fuer Luftfahrtmedizin, dessen stellvertretender Leiter Becker-Freysong war. Es ist klar, dass der Schlussbericht ueber die Holzlochner, Finke und Rascher-Experimente

bei diesem Amt einging und dort sorgfältig studiert wurde. Dieser Bericht beschrieb die Experimente in den kleinsten Einzelheiten, und ging sogar so weit, die Todesfälle aufzuzählen, die in der Folge eintraten. (NO-428, Ankl.Bow. 91, R. 252). Es wurde verschiedentlich bezeugt, dass die Entdeckung der Kältebadmethode zur Behandlung von längerer Kälteeinwirkung als sehr wichtig angesehen wurde und dass ärztliche Anordnungen erlassen wurden, die diese Behandlungsform vorschrieben. Vor dieser Zeit war das Hauptgewicht auf langsame Wiedererwärmung und Behandlung mit Arzneien gelegt worden. Diese ärztlichen Anweisungen konnten von keiner anderen Dienststelle als von dem Institut fuer Luftfahrtmedizin ausgegeben werden und ohne vorhergehendes sorgsames Studium und ohne Auswertung der von Holzlochner, Finke und Rascher durchgeführten verbrecherischen Experimente, die die Grundlage fuer die Anweisungen darstellten, wurden sie nie erlassen werden sein.

Bocker-Freysong war also Hilfsreferent in dem Amt, das den Forschungsauftrag erteilte, in dessen Verfolg die Kälteversuche vorgenommen wurden. Schon im Juni 1942, als er sich mit Hippke und Rascher besprach, wusste er, dass die kriminellen Experimente vorgenommen werden sollten und er half bei der Organisierung der Kältebehandlung, auf der Holzlochner und Rascher Vorträge ueber die Experimente hielten und wohnte ihr bei.

C. Fleckfieberversuche im Konzentrationslager Natzweiler.

Die von Stabsarzt Prof. Dr. Eugen Haagen, dem Beratenden Hygieniker der Luftflotte Reich im Konzentrationslager Schirmeck und Natzweiler vorgenommenen Fleckfieberversuche sind im Einzelnen in den Schriftsätzen der Anklagebehörde gegen Rose und Schroeder beschrieben.

Der Angeklagte Becker-Freyseng gab an, dass diese Fleckfieberexperimente das Referat der Luftfahrtmedizin ebenfalls nicht interessierten und dass er deshalb nichts davon wusste, dass sie durchgeführt wurden. Er gibt an, dass er erst im Mai 1944 herausgefunden habe, dass Haagen einen Forschungsauftrag fuer Fleckfieberimpfstoffe hatte. (R. 7933). Wir finden aber, ^{dass} Rose schon am 9. Juni 1943 mit Haagen bezueglich der Aufnahme der Herstellung von Impfstoffen im Hygienischen Institut der Universitaet Strassburg korrespondierte. In diesem Brief gab Rose an, er wuerde die Luftwaffen-Sanitaetsinspektion ersuchen, beim Chef des Wehrmachts-Sanitaetsdienstes darauf zu dringen, dass die Herstellung von Fleckfieberimpfstoffen fuer alle Streitkraefte im Ostgebiet befohlen werde. (Mo-306, Ankl.Bew. 296, R. 1385). Dieses Dokument deutet darauf hin, dass der Forschungsauftrag fuer Typhusimpfstoffe vom Institut fuer Luftfahrtmedizin kommen musste. Rose gab an, es wuerde "einige Zeit dauern, bis "2 P" seinen neuen Forschungsauftrag herausbringt". Der Hinweis auf "2 P" bedeutet Anthonys und Becker-Freysengs Amt. Becker-Freysengs Behauptung, dass ein Forschungsauftrag oder Befehl auf einem andern Gebiet als dem der Luftfahrtmedizin nicht von seiner Dienststelle erlassen werden konnte, ist grundlos angesichts dieses Dokuments, das von dem Angeklagten Rose, einem Generalarzt in der Luftwaffe, unterzeichnet worden war.

Der Beweis dafuer, dass die an Haagen gegebenen Forschungsauftraege, im Verfolg welcher er seine kriminellen Experimente durchfuehrte, aus Anthonys und Becker-Freysengs Dienststelle stammten, findet sich in einem vom 7. Oktober 1943 datierten Bericht Dr. Haagens an den Rektor der

der Reichsuniversität Strassburg, der die dringlichen Forschungsaufgaben aufzählt, die seinem Institut von der Luftwaffe uobortragen wurden. Darunter befanden sich Gelbfieber, Fleckfieber und Influenza-Aufträge. Jeder dieser Luftwaffen-Forschungsaufträge war von Anthonys und Becker-Freysengs Dienststelle erteilt worden. Das beweisen die Bezeichnungen "2 II A", "2 F" und "2 II B" und der Aktenvermerk "SS" (NO-137, Ankl.B ew. 189, R. 737).

Eine Liste von medizinischen Forschungsaufträgen, die von der Luftwaffe im Jahre 1944 herausgegeben und auf der Becker-Freyseng als Bearbeiter verzeichnet war, schliesst Haagens Fleckfieberimpfstoff-Forschung ein, die als geheim klassifiziert war. (NO-934, Ankl.Bew. 459, R. 3655). Eine von Becker-Freysengs Amt herausgegebene Aufstellung von Ausgaben Haagens im Jahre 1943 und 1944 fuer Influenza-Forschungsaufträge, verzeichnet Belastungen der Luftwaffe fuer verschiedene Reisen nach den Konzentrationslagern Schirmeck und Natzweiler wie auch fuer Telefongespräche dahin. (NO-3450, Ankl.B ew. 519, R. 9587). Ein ähnliches von Haagen in Beziehung auf die von Becker-Freysengs Dienststelle stammenden Gelbfieber- und Fleckfieberforschungsaufträge gefuehrtes Auslagenbuch zeigt Auslagen von Februar 1942 bis November 1944. Seine langandauernde Tätigkeit in Schirmeck und Natzweiler ist aus diesen Aufstellungen klar ersichtlich, bei denen die Notiz stand, dass sie mit der Luftwaffe verrechnet wurden. (NO-3837, Ankl.Bew. 542, R. 10365). Da Becker-Freysengs Dienststelle die Ausgabe von Geldmitteln fuer solche Forschungen genehmigte, befasste sie sich auch mit den Ausgaben.

Becker-Freyseng bestritt, dass er gewusst habe, dass Haagen Experimente an Konzentrationslager-Häftlingen vornahm. Dass dies eine Lüge ist, beweist, Kahnts Brief vom 29. August 1944 an Haagen. (NO-131, Ankl.Bew. 309, R. 1404). Das Original dieses Briefes enthaelt den Aktenvermerk: "Az.: 55 Nr. 6028/44 geh. (2 II A)". Der Brief war also

vom Institut fuer Luftfahrtmedizin geschrieben worden, dessen Leiter zu dieser Zeit Becker-Freyse war. Dieser Brief lautet:

"I. Die Untersuchungen ueber den Fleckfieber-Trockenimpfstoff aus Dettersackkulturen sind weiter fortzusetzen. Hierzu wird die beantragte Forschungsbefugnis von Mk. 4.000.-- zur Verfuegung gestellt."

II. Ein Entscheid ueber die Einrichtung einer Impfstoff-Produktionsstaette kann noch nicht getroffen werden, da die Stellungnahme des Chefs des Wehrmachts-Sanitaetswesens, der fuer die Beschaffung von Impfstoffen allein zustaeendig ist, noch aussteht.

III. Es ist mitzuteilen, ob anzunehmen ist, dass die z.Zt. in Natzweiler herrschende Fleckfieber-Epidemie mit den Untersuchungen ueber einen Impfstoff in Zusammenhang stehen.

IV. Der Bericht vom 21.6.44, in dem die Untersuchungen in Natzweiler angedeutet sind, haette als geheim geschickt werden muessen. Es ist in Zukunft dementsprechend zu verfahren." (VO-131, oben).

Als Becker-Freyse dieser Brief beim Kreuzverhoer vorgelegt wurde, waere er die laecherliche Behauptung, dass nur der erste Paragraph von ihm geschrieben war. (R. 8177). Die Praxis, einzelne Paragraphen in demselben Brief von verschiedenen Personen schreiben zu lassen, ist selbst in der wundervollen Desorganisation des Luftwaffen-Sanitaetsdienstes, wie ihn die Angeklagten ausmalt haben, etwas zu stark, um glaubhaft zu sein. Hinsichtlich des ersten Absatzes gibt Becker-Freyse an:

"Ich war an der Koordination dieser Forschungsgelder als Referent selbstverstaendlich beteiligt; aber da hatte nicht nur ich ein Wort mitzureden, sondern noch verschiedene andere Leute, und das entscheidende Wort hatte der Sanitaetschef, bzw. der Chef des Stabes zu sagen." (Becker-Freyse, R. 8181).

Hier in diesem Brief, der von Becker-Freyse geschrieben und von Kahnt, Schroeders Stabschef, unterzeichnet ist, wird Maaren gefragt, ob die in Natzweiler herrschende Fleckfieber-Epidemie irgendwie mit der Fleckfieberforschung dort in Verbindung stehe. Dies beweist, dass Becker-Freyse wusste, dass Maaren

Experimente an Insassen mit virulentem Fleckfieber vornahm. Hier sahen wir, dass Becker-Freysengs Dienststelle einen Brief fuer die Unterschrift des Stabschefs aufsetzte, der beweist, dass Becker-Freyseng davon wusste, dass Forschungsarbeiten im Konzentrationslager Natzweiler vorgenommen wurden, dass solche Forschungsarbeit als geheim klassifiziert war und dass Becker-Freyseng voellig ueber die Situation im Bilde war und 4000 RM fuer die Fortsetzung der Arbeiten zur Verfaegung stellte. Haagens Antwort auf diesen Brief hin, datiert 19. September 1944, verweist ebenfalls auf das Schreiben vom 29. August 1944 mit dem Chiffre-Zeichen "2 II A". Darueberhinaus besuchte Becker-Freyseng Haagen in Strassburg bevor der Brief am 29. August geschrieben wurde und waehrend die Experimente noch im Gange waren. (Haagen, R. 9569). Haagen sagte aus, dass Becker-Freyseng ihn wegen Tiere aufgesucht habe. Becker-Freyseng gab zu, dass er viele Dokumente gesehen habe, die sich auf Haagens Arbeit bezogen (R. 7934) und dass er Professor Haagen kannte, da er ihn mit Schroeder getroffen und dazu noch in Strassburg besucht habe. (R. 7935).

E. MEERWASSER-EXPERIMENTE

Die an Haeftlingen des Konzentrationslagers Dachau vorgenommenen Meerwasser-Experimente sind im einzelnen im Schriftsatz gegen den Angeklagten Schroeder beschrieben. Becker-Freyseng gibt zu, dass er von den Meerwasser-Experimenten wusste und daran teilnahm. Aus der Beweiserhebung ging hervor, dass er der ruehrigste Teilnehmer bei der Planung und Vorbereitung der Experimente war.

Am 19. Mai fand eine Konferenz im Reichsluftfahrtministerium (RLM) statt, an der u.a. Christensen, Schickler, Becker-Freyseng und Schaefer teilnahmen. Diese Konferenz befasste sich mit dem Problem der Trinkbarmachung von Meerwasser. Zwei Methoden, Meerwasser trinkbar zu machen, standen

zu dieser Zeit dem Sanitätsdienst der Luftwaffe zur Verfügung. Die eine, die sogenannte Schaefer'sche Methode, war chemisch geprüft worden und produzierte anscheinend trinkbares Meerwasser. Sie hatte jedoch den Nachteil, dass sie beträchtliche Mengen von Silber benötigte, das nur in beschränkten Mengen zur Verfügung stand. Die zweite Methode, Berkatit genannt, war eine Substanz die den Geschmack des Meerwassers veränderte, aber das Salz nicht ausschied. Sie hatte den Vorteil einfacher Herstellung und Verwendung.

Die Anfänge der Versuche zur Entdeckung einer Methode, Meerwasser trinkbar zu machen, geht auf April 1942 zurück, als der Angeklagte Schaefer, auf eine Anregung Becker-Freysengs hin, den Auftrag erhielt, dafür zu sorgen, dass das Durstproblem wissenschaftlich bearbeitet würde und er zu diesem Zweck zu dem Institut für Luftfahrtmedizin in Berlin geschickt wurde. (Becker-Freyseng, R. 7980). Schaefer arbeitete während der Jahre 1942 und 1943 an diesem Problem und stellte erschöpfende Versuche an Tieren und technischen Assistenten an, die sich für diese Versuche freiwillig zur Verfügung gestellt hatten. Schaefer beendete sein Werk im November 1943 und führte seine Methode Becker-Freyseng, Hippke und Christensen vor. (R. 7982). Indessen war in der Zwischenzeit eine andere Methode entwickelt worden, die oben als die sogenannte Berka-Methode oder "Berkatit" erwähnt wurde.

Auf der Tagung am 19. Mai berichtete der Angeklagte Becker-Freyseng über gewisse klinische Experimente, die von Sirany zwecks Erprobung von Berkatit durchgeführt worden waren. Er kam zum Schluss, dass die Bedingungen, unter denen die Experimente vorgenommen worden waren, nicht genügend realistisch der Seenot entsprachen. Er berichtete, der Chef des Luftwaffen Sanitätsdienstes

"sei davon überzeugt, dass bei dem Berka-Verfahren nach dem Genuss des Berkatits nach spätestens 6 Tagen

gesundheitliche Schaeden zu erwarten sind, welche eine dauernde gesundheitliche Schaedigung nach sich ziehen und nach Ansicht von Unterarzt Dr. Schaefer nach spaetestens 12 Tagen mit toedlichem Ausgang enden wird. Ausserer Erscheinungen sind durch Entwaesserung, Durchfall, Kraempfe, Halluzinationen und endlichen Tode zu erwarten." (NO-177, Ankl. Bew. 133, R. 479).

Das Resultat dieser Konferenz war ein Beschluss, neue Experimente vorzunehmen. Diese sollten eine Versuchsreihe fuer die Dauer von hoechstens 6 Tagen umfassen, waehrend welcher einer Gruppe von Versuchspersonen mit Berkatit behandeltes Meerwasser gegeben werden sollte, einer anderen Gruppe gewoehnliches Trinkwasser, einer weiteren Gruppe ueberhaupt kein Trinkwasser und der letzten Gruppe Wasser, das in den damals gebrueuchlichen Seenotproviant enthalten war. Man beschloss die Vornahme einer zweiten Versuchsreihe und der Bericht fuehrte aus:

"Leute mit Meerwasser und Berkatit ernaeht, als Proviant ebenfalls den vorgesehenen Seenotproviant.

"Versuchsdauer 12 Tage.

Da nach Ansicht des Chefs des Sanitaetswesens bei dieser Versuchsreihe mit dauernden gesundheitlichen Schaedigungen bzw. dem Tode der Versuchspersonen zu rechnen ist, sollten als Versuchspersonen Leute genommen werden, welche seitens des Reichsfuehrers-SS zur Verfuegung gestellt worden." (NO-177, oben).

Also im vollen Bewusstsein, dass der Genuss von Berkatit fuer einen Zeitraum von 6 Tagen eine dauernde Schaedigung der Versuchspersonen mit sich bringen und dass spaetestens am 12. Tage der Tod eintreten wuerde, wurden Plaene gemacht, Experimente durchzufuehren, die 6 bis 12 Tage lang dauern sollten. Es ist zu beachten, dass der Konferenzbericht nicht angibt, dass die Hoechstdauer 12 Tage sei, wie bei den ersten Versuchsreihen; sie sollten aber auf alle Faelle 12 Tage lang durchgefuehrt werden. Da man wusste, dass man unter solchen Umstaenden nicht mit Freiwilligen rechnen konnte, entschied sich die Konferenz dafuer, Konzentrationslagerhaeftlinge zu verwenden, die von der SS zur Verfuegung gestellt werden wuerden. Im Bericht ueber eine zweite Tagung am 20. Mai 1944 heisst es: "Als

Versuchsort wurde Jachau bestimmt" (NO-177, oben). Abschriften der Berichte ueber die Tagung gingen u.a. an die Sanitaets-Versuchs- und Lehrabteilung der Luftwaffe Juesterbog, der die Angeklagten Schaefer und Holzloehner, die die Kaelteexperimente mit Rascher durchfuehrten, zugeteilt waren; an die DVL Berlin-Adlershof, der die Angeklagten Ruff und Romberg zugeteilt waren; an die Luftwaffensanitaetsinspektion (L. In. 14); und an den Reichsfuehrer-SS; der Bericht war von Christensen von dem technischen Buero des RLA unterzeichnet.

Am 7. Juni 1944 schrieb der Angeklagte Schroeder an Himmler auf dem Weg ueber Grawitz und ersuchte um Konzentrationslagerhaeftlinge, die als Versuchspersonen bei den Meerwasserversuchen verwendet werden sollten. Dieser Brief lautet auszugsweise:

"Sie gaben bereits frueher der Luftwaffe die Moeglichkeit, dringende aerztliche Fragen im Versuch an Menschen zu klaeren. Ich stehe heute wieder vor einer Entscheidung, die nach zahlreichen Tier- und auch Menschenversuchen an freiwilligen Versuchspersonen eine endgueltige Loesung verlangt: die Luftwaffe hat gleichzeitig zwei Verfahren zum Trinkbarmachen von Meerwasser entwickelt. Das eine, von einem San.Offizier entwickelte Verfahren entsalzt das Meerwasser und macht es zu einem wirklichen Trinkwasser, das zweite, von einem Ingenieur angegebene Verfahren laesst den Salzgehalt unveraendert, es nimmt dem Seewasser nur den unangenehmen Geschmack. Das letzte Verfahren benoetigt im Gegensatz zum ersten keine Engpassrohstoffe. Aerztlicherseits muss dieses Verfahren nach unseren heutigen Kenntnissen als bedenklich angesehen werden, da die Zufuhr konzentrierter Salzloesungen schwere Vergiftungserscheinungen hervorrufen kann.

Da die Versuche an Menschen bisher nur bis zu einer Dauer von vier Tagen durchgefuehrt werden konnten, die praktischen Forderungen aber eine Versorgung in Seenot Geratener bis zu 12 Tagen verlangen, sind entsprechende Versuche erforderlich.

"Benötigt werden 40 gesunde Versuchspersonen, die fuer 4 Wochen voll zur Verfuegung stehen muessen; Da von fruere-
ren Versuchen bekannt, dass im Konzentrationslager Dachau
die notwendigen Laboratorien sind, waere dieses Lager sehr
geeignet." (NO-185, Ankl. Bew. 134, R. 483, - Unterstreichun-
gen eingefuegt).

Schroeder schloss diesen Brief mit dem Bemerken, dass die Versuche von dem Angeklagten Beiglboeck geleitet werden wuerden.

Es ist wichtig zu beachten, dass der erste Entwurf dieses Briefes von Schroeder an Himmler von dem Angeklagten Becker-Freyseng diktiert wurde. (Becker-Freyseng, R. 8210). Dieser Brief beweist in einer jeden Zweifel ausschliessenden Weise, dass der Angeklagte Becker-Freyseng von den vorhergegangenen kriminellen Experimenten wusste, die Aerzte der Luftwaffe an Konzentrationslagerhaeftlingen vorgenommen hatten. Zweimal erwahnte er fruhere Experimente, die durch die Zurverfuegungstellung von Haeftlingen seitens der SS ermoglicht worden waren. Der Brief beweist ferner, dass die Versuchspersonen keine Freiwilligen sein sollten. Schroeder, der den Brief unterzeichnet und Becker-Freyseng, der ihn geschrieben hat, erwahnen ausdruecklich im zweiten Satz des ersten Absatzes, dass Tierversuche, sowie Menschenversuche an "freiwilligen Versuchspersonen" schon durchgefuehrt worden seien, aber dass das Problem jetzt eine endgueltige Loesung verlange, da diese Experimente nur bis zu einer Dauer von vier Tagen durchgefuehrt worden seien, waehrend die praktischen Forderungen eine Hilfe fuer in Seenot Geratene bis zu 12 Tagen verlange. Die Verteidigung hat die Uebersetzung des zweiten Satzes im ersten Absatz bestritten und eine andere Uebersetzung vorgeschlagen, der zufolge Schroeder den Reichsfuehrer um freiwillige Versuchspersonen ersucht haette. Die Uebersetzungs-Sachverstaendigen des Office of Chief of Counsel for War Crimes haben die oben angefuhrte Uebersetzung beglaubigt und die Anklagebehoerde verlaesst sich darauf.

Dass diese Uebersetzung richtig ist, geht vollkommen klar aus dem Sitzungsprotokoll vom 12. und 20. Mai 1944 hervor, das ausdruuecklich erwahnt, dass, da bei diesen Versuchen Todesfaelle zu erwarten seien, nur solche Leute bei den Versuchen verwendet werden sollten, die von Himmler zur Verfuegung gestellt werden wuerden. Es ist laecherlich, bei Versuchen, bei denen mit Todesfaellen als mit einer feststehenden Tatsache gerechnet wird, von Freiwilligen zu sprechen. Man muss sich ferner daran erinnern, dass die Luftwaffe schon seit langem in den Konzentrationslagern Versuche an unfreiwilligen Versuchspersonen durchgefuehrt hatte. Die Meerwasser- versuche waren nur ein Glied in einer Reihe verbrecherischer Experimente, die von der Luftwaffe eingeleitet worden waren. Schroeder und Becker-Freyseng wandten sich an die SS, weil sie von diesen frueheren Experimenten wussten.

Dass diese Versuche an unfreiwilligen Versuchspersonen vorgenommen wurden, beweist auch der Brief, den Grawitz an Himmler am 28. Juni 1944 schrieb. (NO-179, Ankl. Bew. 135, R. 485). In diesem Brief berichtet Grawitz ueber die Ansicht von Gebhardt, Gluecks, Nebe, wie auch ueber seine eigene Ansicht hinsichtlich der vorgeschlagenen Experimente. Gluecks gab an, dass "gegen die Durchfuehrung der vom Chef des Sanitaetswesens der Luftwaffe erbetenen Versuchsreihe in der Versuchstation Rascher im Konzentrationslager Dachau von hier aus keinerlei Bedenken erhoben werden. Es sollen nach Moeglichkeit Juden oder in Quarantaeno befindliche Haeftlinge verwendet werden." Man kann sich unmoeglich vorstellen, dass ein Jude aufgefordert worden waere, sich freiwillig fuer irgendetwas im Dritten Reich zu melden, zu einer Zeit, wo sie millionenweise in Konzentrationslagern hingeschlachtet wurden. Nebe fuehrte aus:

"Ich schlug vor, hierzu die asozialen Zigeunermischlinge zu verwenden. Hierunter befinden sich Menschen, die zwar gesund sind, aber fuer den Arbeitseinsatz nicht in Frage kommen. Ich werde diesen zigeunerischen Menschen wegen demnaechst Reichsfuehrer einen besonderen Vorschlag unterbreiten, halte es aber fuer richtig, die erforderliche Anzahl Versuchspersonen aus diesem Personenkreis auszuwaehlen. Falls Reichsfuehrer zustimmt, werde ich die Versuchspersonen namhaft machen."

Es ist etwas schwierig sich vorzustellen, wie Nebe, der Leiter der Reichskriminalpolizei, Zigeunerfreiwillige fuer diese Experimente "namhaft" machen konnte. Grawitz widersprach der Benutzung von Zigeunern aus dem Grund, dass sie "teilweise andersartig rassisch zusammengesetzt seien", weshalb es wuensenswert sei, Versuchspersonen zu haben, die rassisch der europaeischen Bevoelkerung vergleichbar sind. Himmler entschied, dass Zigeuner und drei andere Personen zu Kontrollzwecken benuetzt werden sollten. (NO-183, Ankl. Bew. 136, R. 487).

Der Angeklagte Becker-Freyseng sagte ebenso wie Schroeder aus, sie haetten versucht, Vorkehrungen zur Durchfuehrung von Meerwasserversuchen im Luftwaffenlazarett Braunschweig zu treffen und sie haetten auch versucht, Studenten der Aerztlichen Luftwaffenakademie Ende Mai 1944 als Versuchspersonen zu gewinnen. Sie geben an, sie haetten sich erst an die SS gewandt, nachdem sie alle anderen Moeglichkeiten erschoept haetten. Der Beschluss, Konzentrationslagerhaeftlinge zu verwenden, hat nicht den Erfolg der Bemuehungen, Freiwillige zu finden, abgewartet. Man wusste, dass gerade in Anbetracht des speziellen Charakters der geplanten Versuche Freiwillige nicht erhaeltlich sein wuerden. Auf der anderen Seite kann man unmoeglich glauben, dass Schroeder und Becker-Freyseng in ihren wichtigen Stellungen bei der Luftwaffe nicht 40 Freiwillige fuer Experimente finden konnten, wenn sie so unschuldig waren, wie sie behaupten. Es gab keine Vorschriften, die die Vornahme von Versuchen an Wehrmachtangehoerigen verboten haetten. Professor Haagen betonte im Zusammenhang mit den von ihm in seinem Brief vom 27. Juli an den Schroeders Stab zuge- teilten Kalk vorgeschlagenen Gelbsuchtexperimenten an Menschen, ganz aus- fuehrlich, er plane, Freiwillige von den Studentenkompagnien der Wehrmacht (R. 9578). in Strassburg, Freiburg oder Heidelberg zu verwenden. /Haagen war positiv,

dass Studenten-Freiwillige zur Verfuegung gestellt werden konnten. Er gab an, er haette sie waehrend ihrer Ferien verwenden koennen. Kalk war auch sicher, dass dies haette getan werden koennen. Haagen betonte nachdruecklich, dass Freiwillige zur Verfuegung standen. (R. 9580). Becker-Freyseng sagte aus, dass er gewusst habe, dass Berkatit den Tod innerhalb laengstens 12 Tagen hervorrufen wuerde. Er betonte in der Tat, nachdruecklich, er sei ueberzeugt gewesen, dass unter gewissen Umstaenden der Tod in viel kuerzerer Zeit als 12 Tagen eintreten wuerde, wenn die Berka-Methode verwendet wuerde. (R. 8193).

Die Aussagen hinsichtlich der Tabellen und der Bedingungen, unter denen die Versuchspersonen die Experimente erdulden mussten, sind im einzelnen in den Schriftsaetzen gegen Schroeder, Beiglboeck und Schaefer niedergelegt, und werden hier nicht besprochen.

Der Angeklagte Becker-Freyseng sagte aus, er sei verantwortlich fuer den Beginn der Meerwasserexperimente in Dachau, und dass der Grund fuer die Experimente die Tatsache war, dass das technische Buero glaubte, aus wirtschaftlichen Gruenden sei es am besten, die Berka-Methode zu verwenden. Er gab an:

"Ich habe ausgefuehrt, und zwar glaube ich sehr ausfuehrlich, dass diese wirtschaftlich-rohstoffmaessigen Gruende ja auch das waren, was das technische Amt bestimmt hat, fuer das Berkatit einzutreten und was Herrn Professor Schroeder auch letzten Endes bestimmt hat, die Frage des Berkatit auf Vorschlag Eppinger und Heuber noch einmal durch einen Versuch zu pruefen. Selbstverstaendlich wenn das Berkatit im Endeffekt genau so gut gewesen waere, waere es natuerlich ein sehr grosser Vorteil gewesen, wenn man ohne dem Silber ausgekommen waere." (R. 8190-1).

Die Angeklagten Schroeder, Becker-Freyseng, Beiglboeck und Schaefer waren sich der Tatsache wohl bewusst, dass Berkatit gefaehrlich war, aber sie waren bereit es auszuprobieren, um sich selbst und die anderen Mitglieder des technischen Amtes zu vergewissern, dass eine solche Methode Meerwasser nicht wirklich trinkbar machen koenne. Als Becker-Freyseng gefragt wurde, warum er den Befehl

zu diesen Experimenten gab, erklarte er:

"Ich wollte nicht die Experimente, sondern ich musste mich an der Vorbereitung dieser Experimente aus Dienstgruenden beteiligen." (R. 8192).

Er gab unumwunden zu, dass Siranys Experimente gezeigt haetten, dass die Berka-Methode nichts taue und, als er im Kreuzverhoer gefragt wurde, wer die Verwendung von Haeftlingen bei den Experimenten vorschlug, gab Becker-Freyseng an:

"Ich habe von der Moeglichkeit gesprochen, falls wir keine anderen Versuchspersonen bekommen, uns um Haeftlinge zu bemuehen, aber nicht aus dem Grund, weil wir die Versuche, fuer mit Todesgefahr verbunden hielten, sondern aus reinen Organisationsgruenden." (R. 8206).

Bei Abfassung des Briefes an Himmler durch Vermittlung von Grawitz zeigte Becker-Freyseng volle Kenntnis des Weges, der eingeschlagen werden musste, um Konzentrationslagerhaeftlinge als Versuchspersonen zu erhalten. Becker-Freyseng leugnet nicht, dass er Beiglboeck die Befehle und Anweisungen gab, an Konzentrationslagerhaeftlingen in Dachau zu experimentieren. Er gab an, dass Beiglboeck der Sanitaetsinspektion unterstellt war, und dass er ihm befahl, solche Experimente so durchzufuehren, dass "es bei den Versuchen nicht zu ernststen Gesundheitsschaeden der Versuchspersonen komme und selbstverstaendlich nicht zu Todesfaellen". (R. 8050). Ist es nicht sehr bequem fuer einen Angeklagten jetzt auszusagen, dass er einem Untergebenen ausdruecklich sagte, dass die Experimente unter keinen Umstaenden ernstlichen Schaden an der Gesundheit der Versuchspersonen verursachen duerfen, geschweige denn Todesfaelle? Beiglboeck sagte aus, er habe verlangt, dass diese Experimente irgendwo anders durchgefuehrt wuerden, aber Becker-Freyseng habe sein Ersuchen abgeschlagen und die Fortsetzung der Experimente in Dachau anbefohlen. (R. 8082).

Becker-Freysengs Beteiligung an diesen Experimenten beschraenkte sich nicht darauf, dass er die Vorkehrungen fuer die Experimente traf und dem Angeklagten Beiglboeck Instruktionen erteilte. Er besuchte auch im Oktober 1944 die Tagung,

auf der Beiglboeck einen vollen Bericht ueber die Ergebnisse seiner Versuchsarbeiten im Konzentrationslager Dachau gab.

III. SCHLUSS

Die Anklagebehoerde unterstellt, dass das Beweismaterial ergibt, dass Hermann Becker-Freyseng Haupttaeter, Teilnehmer, Anstifter, Vorschubleistender war, seine Zustimmung gab und in Verbindung stand mit Plaenen und Unternehmen, die die Durchfuehrung medizinischer Versuche an lebenden Menschen ohne Zustimmung der Betroffenen zum Gegenstand hatten, und Mitglied einer Organisation oder Gruppe war, die in Verbindung stand mit diesen Versuchen, in deren Verlauf Mordtaten, Brutaltaten, Grausamkeiten, Folterungen, Greuelthaten und andere unmenschliche Handlungen begangen wurden, und dass seine Schuld im Sinne der Punkte I, II und III der Anklageschrift erwiesen ist.

"ENDE"

Ich, Fred Lax # X 046207, bestaetige hiermit, dass ich durchaus vertraut mit der englischen und deutschen Sprache bin und dass das Vorstehende eine wahrheitsgemaesse und richtige Uebersetzung des Dokuments "Hermann Becker-Freyseng" darstellt.

Nuernberg, 4. August 1947

FRED LAX
X 046207

CASE NO. 1, TRIBUNAL I

PROSECUTION

Closing-Brief for Wilhelm Beiglboeck

(see attachment inside)

Gefman



Case No. 1 , Tribunal 1

Prosecution

Closing Brief for Wilhelm Beiglboeck
not available in German..



TRANSLATION OF CLOSING BRIEF KURT BLOME
OFFICE OF CHIEF OF COUNSEL FOR WAR CRIMES

Cover

MILITÄR-GERICHTSHOF NO. I

PROZESS No 1.

ABSCHLIES UNTER SCHRIFTSATZ
DER AMERIKANISCHEN ANKLAGEVERRETUNG
GEGEN
KURT BLOME

Nuernberg,
16 Juni 1947

James N. MacKenoy
Alexander G. Hardy
Arnost Horlik-Rochwald
Nether Jane Johnson

Fuer

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for
War Crimes



EINFUEHRUNG

Gemaess Punkt I der Anklageschrift ist der Angeklagte BLOME durch Teilnahme an einem gemeinsamen ausgearbeiteten Plan mit anderen dahin uebereingekommen, an Menschen, ohne deren Inverstaendnis, medizinische Versuche vorzunehmen. Gemaess den Punkten II und III (Kriegsverbrechen bzw. Verbrechen gegen die Menschlichkeit) war er Haupttater, Mittater, Anstifter, Vorschubleistender; gab er seine Zustimmung zu und stand in Verbindung mit Plaenen und Unternehmungen zur Vornahme von medizinischen Versuchen an lebenden Menschen ohne deren Inverstaendnis, zur Ermordung und Misshandlung von Zehntausenden von polnischen Staatsangehoerigen, die angeblich an unheilbarer Tuberkulose litten, sowie zur Durchfuehrung des "Euthanasie"-Programms.

Dem Angeklagten BLOME wird in besonderem Masse die Verantwortung fuer die Malaria- und Gasversuche, die Ermordung und Misshandlung von tuberkulosen Polen und die Verwirklichung des "Euthanasie"-Programms zur Last gelegt. Die Beweisaufnahme hat ausserdem ergeben, dass er an den Kaelteexperimenten, den Versuchen fuer einen Bakterienkrieg und den Blutgerinnungsversuchen beteiligt war. Zur Vereinfachung des Gerichtsverfahrens zieht die Anklagevertretung die Beschuldigung der Teilnahme an den Versuchen mit Sulfanilamid zurueck.

I. Verantwortungsvolle Stellungen.

Der Angeklagte BLOME hat im Sanitaetsdienst des Deutschen Reiches und der Nazi-Partei Stellungen innegehabt, die mit grosser Machtfuelle und Verantwortung verbunden waren.

Er trat im Jahre 1931 in die SA ein und wurde Gaubmann, d.h. er bekleidete den hoechsten Sanitaetsdienstgrad in der SA in der Provinz Moeklenburg. Im Jahre 1934 wurde er zum Gauamtsleiter (Province Office Leader) ernannt. In der SA erreichte er den Rang eines Gruppenfuehrers (Generalmajor). Im Jahre 1943 wurde ihm das Goldene

TRANSLATION OF OPENING BRIEF KURT BLOME
CONTINUED

(Seite 2 des Originals)

BLOME

Parteiabzeichen verliehen, die hoechste Auszeichnung der Nazi-Partei.
(Blome R 4455-7).

Im Jahre 1934 wurde er Leiter des Deutschen Aerztebundes, der sich spaeater zur Reichsaerztekammer erweiterte. BLOME bekleidete diese Stelle bis zum Kriegsende. Im Jahre 1935 wurde er zum Leiter der "Entwicklung des medizinischen Studiums" ernannt. Als solcher hatte er die Aufgabe, das deutsche medizinische Bildungswesen zu organisieren (Blome, R. 4458, Nr-675, Anklage-Beweisstueck Nr. 37, R 142-4). Gerade waehrend seiner Amtszeit als Leiter der "Entwicklung des medizinischen Studiums" erfuhr die deutsche medizinische Wissenschaft ihren Niedergang und das Bekenntnis zur Nazi-Weltanschauung wurde die Voraussetzung fuer eine wissenschaftliche Laufbahn. Das Medizinstudium wurde versuchsweise abgekuerzt, um den Studenten einen Anreiz zu moeglichst frueher Heirat zu geben. Neue Lehrgegenstaende, die einen fruchtbaren Boden fuer die Nationalsozialistische Propaganda bildeten, wurden in Staatsexamen eingefuehrt, um Studenten mit typisch Nationalsozialistischen Ideen zu durchdringen. Der nationalsozialistische Studentenbund wurde gegrueendet. Er diente dem Zwecke, im ersten Jahre des Universitaetsstudiums festzustellen, ob die Studenten vom nationalsozialistischen Standpunkt aus zuverlaessig waren. (Leibbrandt, R. 1971). Ein Student, der dem NS Studentenbund nicht angehorte, wurde als verdaechtig angesehen. Wenn er keiner Parteiorganisation angehorte, war es sehr schwer oder gar unmoeeglich fuer ihn, zum Staatsexamen zugelassen zu werden. (Leibbrandt, R. 1984) Medizinstudenten mussten Pruefungen bestehen in Bezug auf Rasse-theorien und die Fuernberger Gesetze, welche die Juden unterschiedlich behandelten. Entscheidend fuer die Moeglichkeit, sich als Dozent an einer Universitaet zu habilitieren,

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TRANSLATION OF CLOSING BRIEF KURT BLOME
CONTINUED

(Seite 3 des Originals)

BLOME

war die Frage, ob der Bewerber ein guter Nationalsozialist war. Um sicherzustellen, dass nur gute Nationalsozialisten berufen wurden, wurde ein umfassendes "Spitzel" System angewandt. (Leibbrandt R. 1985).

BLOME selbst leitete die deutsche Aerzteschule in Altrose. (Blome, R. 4465). Zweck dieser Schule war die Durchdringung junger deutscher Aerzte mit der nationalsozialistischen Weltanschauung. (Leibbrandt 1983). Die Teilnahme an dem Lehrgang in Altrose mag natuerlich "freiwillig" gewesen sein, aber sie war selbstverstaendlich die Voraussetzung fuer eine erfolgreiche Aerztelaufbahn im nationalsozialistischen Deutschland.

Im Jahre 1939 wurde BLOME Stellvertreter des Reichsgesundheitsfuhrers (Reich Health Leader), Dr. Leonardo CONTI. (Blome, R. 4458). CONTI war die hoechste Autoritaet auf dem Gebiete der zivilstaetlichen Gesundheitsverwaltung und hatte ueberregende Machtbefugnisse die ueber die der kompetenten hoechsten Reichsbehoerden hinausgingen. Der von HITLER unterzeichnete Erlass vom 28. Juli 1942 bezueglich des Gesundheits und Sanitaetswesens legt diese Stellung CONTI's genau fest:

"Auf dem Gebiete des zivilen Gesundheitswesens ist . . . der Staatssekretaer im Ministerium des Innern und Reichsgesundheitsfuhrer Dr. CONTI fuer einheitliche Massnahmen verantwortlich. Zu diesem Zwecke stehen ihm die zustaendigen Abteilungen der obersten Reichsbehoerden und andere nachgeordnete Stellen zur Verfuegung." (Ho-080, Anklage-Beweisstück 5, R 93).

CONTI war Leiter des oeffentlichen Gesundheitsamtes der NSDAP, der aerztlichen Berufsverbaende, der Abteilung IV im Reichsministerium des Innern (Abteilung fuer Gesundheitswesen) und der Abteilung fuer soziale Sicherheit im

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Reichsarbeitsministerium. (Nr. 645, Anklage-Beweisstück 3, R. 84, Leibbrandt, 1978-9). In seiner Eigenschaft als Reichsgesundheitsführer unterlag ihm die Aufsicht der Reichsarztekammer und somit war er der Vorgesetzte aller Ärzte im Deutschen Reich, ausgenommen solcher, die in der Wehrmacht und der SS dienten. Es gab keine einzige medizinische Frage, die ihm nicht vorgelegt wurde und die er nicht regelte. (Leibbrandt, R. 1979-80.) CONTI's bedeutende Rolle bei der Planung und Durchführung des Euthanasie Programms wird durch die Tabelle bewiesen, ^{gezeichnet hat} die der Angeklagte BRACK/(Nr. 253, Anklage-Beweisstück 331, R 1532), und durch die Aussage der Angeklagten Karl BRANDT (R. 2399, 2400) und BRACK (R 7552-4).

Gemäß seiner eigenen Aussage war BLOME CONTI's Stellvertreter (a) in der Führung der Reichsarztekammer (b), in der Führung des Hauptgesundheitsamtes der NSDAP (Reichsgesundheitsführer), (c) in der Führung des NS Ärztebundes. (Nr 675-oben, Blome R 4458).

BLOME war auch ein führendes Mitglied des Reichsforschungsrates. Er wurde Beauftragter für die Krebsforschung, als diese Organisation durch Erlass vom 9. Juni 1942 GOERING unterstellt wurde. (Blome R 4484, Nr. 894, Anklage-Beweisstück 38 R 144). Es war die Aufgabe der Beauftragten zu bestimmen, welches Forschungsgebiet besonders gefördert und unterstützt werden sollte, und die für die Durchführung der Forschungsarbeiten geeigneten Wissenschaftler auszuwählen. (Blome R 4484). Als Beauftragter konnte BLOME Forschungsaufträge im Zusammenhang mit RASCHER's Kälteexperimente und HIRT's Lostgasversuche erteilen. (Nr 690, Anklage-Beweisstück 120, R. 371). Auch

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unterstuetzte er RaSCHER's Polygal-Versuche. (Blome, R. 4527).

BLOME wurde auch mit der mit dem Bakterienkrieg verbundenen Forschung betraut, die er unter dem Decknamen Beauftragter fuer Krebsforschung durchfuehrte. (Blome, R. 4458).

Die Beweisaufnahme hat gezeigt, dass der Reichsforschungsrat medizinische Versuche an Menschen - KZ-Lagerhaeftlinge - ohne deren Einverstaendnis einzuholen, unterstuetzte und foerderte. Schon im Dezember 1942 trat das Reichsfinanzministerium an den Reichsforschungsrat mit dem Ersuchen heran, sich zu einer Anforderung von Geldmitteln seitens des Reichsarztes SS GRAWITZ zu aeussern. Dr. KENTZEL vom Reichsforschungsrat genehmigte die Zurverfuegungstellung dieser Mittel am 25. Maers 1943, indem er erklarte: "Soweit sie, zum geringsten Teil, fuer die Erweiterung wissenschaftlicher Forschungsmoeglichkeiten gedacht sind, duerfen sie nur fuer solche Faelle verwendet werden, die lediglich die Waffen-SS mit dem ihr zugaenglichen Material (Gefangene) erledigen kann und die daher von keiner anderen Forschungsstelle uebernommen werden koennen". (002-PS, Anklage-Beweisstueck 39, R. 152). (Abschrift ist an dieser Stelle fehlerhaft, weshalb diese zweckmaessigerweise im Dokumentenbuch Nr. 1 nachzuschlagen ist.) Die Anklagevertretung hat das Gericht auf die Ausfuehrungen des Internationalen Militaergerichtshofes im Prozess Nr. 1 verwiesen, die wie folgt lautet:

"Im Zusammenhang mit der Verwaltung der KZ-Laeger, hat die SS eine Reihe von Versuchen an Menschen - Kriegsgefangenen oder KZ-Lagerhaeftlingen - vorgenommen. Bei diesen Versuchen kam es zum Tod durch Erstarrung und zu Toetungen mit Giftmunition. Der SS gelang es, Reichsmittel fuer diese Forschungszwecke zu erhalten, da sie in der Lage war, zu erklaren, dass ihr Menschenmaterial zugaenglich sei, das an anderen Stellen nicht zur Verfuegung stand." (R. 153).

Das verbrecherische Experimentieren des Reichsforschungsrates an Menschen ohne deren Einwilligung,

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beschränkte sich nicht auf die Genehmigung von Geldmitteln fuer Forschungsarbeiten durch die SS. Durch sie wurden Forschungsauftraege erteilt, die Versuche an KZ-Lagerhaeftlingen in sich einschlossen. So erhielt im Herbst 1943 RASCHER vom Reichs-Forschungs-Rat den Auftrag, Trocken-Frier-Versuche durchzufuehren, waehrend HIRT in Metzweiler das Senfges-Experiment mit dessen Unterstuetzung durchfuehrte. (Nr. 690, Anklage-Beweisstueck 120, R. 371, et seq; Doc. Nr. 432, Anklage-Beweisstueck 119, R. 369). Interesse wurde auch am Blutgerinner gezeigt, wie er von RASCHER in Dachau entwickelt wurde, wo im Laufe der Versuche Insassen des Konzentrationslagers erschossen wurden. (Nr. 613, Anklage-Beweisstueck 243, R. 962). Diese Anweisungen gab BLOME persoenlich an RASCHER und HIRT. Und der Reichs-Forschungs-rat, zusammen mit der Luftwaffe, foerderte die Versuche mit Fleckfieber, Gelbfieber und Gelbsucht, die von HAAGEN an Insassen des Konzentrationslagers Metzweiler vorgenommen wurden. (Nr. 137, Anklage-Beweisstueck 189, R. 727). Das war die Taetigkeit des Reichs-Forschungsrates. Als wichtiges Mitglied dieser Gruppe oder Organisation (Reichs-Forschungsrat), verbunden mit der Beauftragung solcher Verbrechen, und da er selbst tatsaechlich daran teilgenommen hat, muss BLOME fuer schuldig befunden werden nach den Bestimmungen des Kontrollrat-Gesetzes Nr. 10, Paragroph II, Absatz 2.

Der Angeklagte BLOME hatte damals folgende verantwortungsvolle Posten inne: Gruppenfuehrer der SA, Stellvertreter des Reichsgesundheitsfuehrers; Stellvertreter des Leiters der Reichsaerztekammer und der Vereinigung des "Nationalsozialistischen Aerztesbundes"; Vertreter fuer die Entwicklung des medizinischen Studiums; Beauftragte fuer Krebsforschung im Reichs-Forschungsrat; und Fuehrer der Forschung ueber bakteriologische Kriegsfuehrung.

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II. PERSÖNLICHE TEILNAHME AN VERBRECHERISCHEN HANDLUNGEN

A. Mord und Misshandlung polnischer Staatsangehöriger.
(Anklageschrift, Paragraph 8).

Im Jahre 1941 gehörte es im Dritten Reich bereits zum festen Grundsatz, die juedische Bevoelkerung Deutschlands und der besetzten Laender auszueroeten (Urteil, Internationales Militaergericht, R. 16920 et seq). Diesem Grundsatz zufolge hat der Reichstatthalter fuer den Warthegau, GREISER, von HIMMLER die Erlaubnis erhalten, die juedische Bevoelkerung in dieser Provinz auszueroeten. In einem Schreiben vom 1. Mai 1942 benachrichtigte er HIMMLER, dass die "Spezialbehandlung" von ungefaehr 100,000 Juden in 2-3 Monaten beendet sein wuerde. Er erklaerte, dass sobald diese Aufgabe ausgefuehrt worden sei, die vorhandenen und ausgebildeten Sonderkommandos fuer die Vernichtung von ca 35,000 polnischen Staatsangehoerigen, die an offener Tuberkulose litten, verwendet werden koennten. Diese Polen seien zugestandenermassen eine Gefahr fuer die deutschen Beamten und ihre Familien, da sie moeglicherweise einen Ansteckungsherd fuer Lungentuberkulose darstellten. GREISER fuhr fort:

"Die steigenden Gefahren wurden auch vom Vertreter des Reichsgesundheitsfuhrers, Kemerer Professor Dr. BLOME anerkannt und gewuerdigt, ebenso wie vom Fuehrer Ihres Roentgen-Bataillons SS-Standartenfuhrer Prof. Dr. HOHLMEIER.

"Obgleich es nicht moeglich ist, in Deutschland selbst drakonische Massnahmen gegen diese oeffentliche Plage zu unternehmen, glaube ich die Verantwortung fuer einen Vorschlag uebernehmen zu koennen, die Falle mit offener TBC unter der polnischen Masse im Warthegau zu vernichten. Fuer diese Aktion sollte natuerlich nur ein Pole uebergeben werden, der nicht nur an offener TBC leidet, sondern dessen Unheilbarkeit durch einen oeffentlichen Beamten des Gesundheitsdienstes nachgewiesen und bestaetigt wird. In Anbetracht der Dringlichkeit des Planes bitte ich Sie Ihre grundsatzliche Zustimmung so bald wie moeglich zukommen zu lassen. Dies wuerde mir ermoeglichen, schon jetzt Vorbereitungen mit allen notwendigen Vorsichtsmassnahmen zu treffen.

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um das Verfahren gegen die Polen, die an offener Tuberkulose leiden, einzuleiten, waehrend das Verfahren gegen die Juden sich dem Ende naehert." (Nr. 246, Anklage-Beweisstueck 196, R. 474-5.)

In einem Brief vom 27. Juni 1942 stimmte HIMMLER grundsätzlich diesem Plan zu, und wies GREISER an, die einzelnen Massnahmen zunaechst ausfuehrlich mit der Sicherheitspolizei zu besprechen, um die unauf- faellige Durchfuehrung der Aufgabe sicherzustellen. (Nr. 244, Anklage- Beweisstueck 201, R. 752). Am 21. November 1942 teilte GREISER HIMMLER mit, dass die Untersuchungen, die vorzunehmen waren, um die Heilbaren von den Unheilbaren zu trennen, von Prof. HOHLF LIER und seinem Roentgen-Bataillon durchgefuehrt werden wuerden. Er schaeetzte, dass die erste Anwendung der Methode in ungefaehr sechs Monaten statt- finden wuerde. Er erklaerte ferner:

"In diesem Stadium des Verfahrens erhebt Prof. Dr. BLOME, in seiner Eigenschaft als stellvertretender Leiter des Hauptamtes fuer Volksgesundheit der NSDAP einige Einwendungen gegen die Durchfuehrung des Verfahrens, wie er dies in einem Brief vom 18. November festlegt. Diese Einwendungen werden erst jetzt zum Ausdruck gebracht, obwohl Dr. BLOME und Dr. HOHLF LIER und ich selbst Monate darauf verwendet haben, um in vorbereitender Arbeit das ganze Verfahren zu pruefen, klarsustellen und in Ordnung zu bringen.

"Ich fuege eine Abschrift von BLOME's Brief vom 18. Novem- ber zu Ihrer Kenntnissnahme bei." (Nr. 249, Anklage-Beweis- stueck 202, R. 752-3).

In diesem Brief erklaerte BLOME, dass unter der polnischen Bevoel- kerung der Provinz wenigstens 35,000 Leute an offener Tuberkulose litten und ausserdem ungefaehr 120,000 Schwindsuechtige Behandlung noetig haetten. Dies bilde eine ausserordentliche Gefahr fuer die deutschen Ansiedler in allen Teilen der Provinz. Um weitere deutsche Einwanderung zu ermoeeglichen, sollten bald Gegenmassnahmen ergriffen werden. BLOME entwarf sodann die drei Wege zur

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praktischen Ausschaltung des Infektionsgefahr:

- "1. Sonderbehandlung der ernstlich erkrankten Personen.
2. Strengste Absonderung der ernstlich erkrankten Personen.
3. Errichtung eines Sondergebietes fuer alle Tuberkulose-Patienten."

Zum Vorschlag No. 1 bemerkte er:

"die auf ungefaehr 35,000 sich belaufenden Polen, welche unheilbar und ansteckend sind, werden "sonderbehandelt". Alle anderen an Lungenschwindsucht leidenden Polen werden einer angemessenen Behandlung unterzogen, um sie fuer Arbeitszwecke zu erhalten, und zu vermeiden, dass sie einen Ansteckungsherd bilden".

BLOME wies darauf hin, dass eine der praktischsten Schwierigkeiten der voelligen Ausrottung aller tuberkulose-kranken Polen darin bestohe, dass ein solches Verfahren ausgezeichnetes Propaganda--material fuer die Feinde Deutschlands liefern koennte, besonders mit Ruecksicht auf die streng katholischen Anschauungen des italienischen Volkes und "aller Aerzte der Welt". Er erachtete es daher fuer noetig, dass HITLER selbst persoenlich die Entscheidung ueber diese Massnahmen treffe. Sollte HITLER diese radikale Loesung fuer unangebracht halten, so sollten Vorbereitungen fuer die Ausfuehrung des Plans, wie in Punkt 2 und 3 dargelegt, gemacht werden. Die ausnahmslose Ansiedlung aller tuberkulose-kranken Polen, ohne Ruecksicht auf Heilbarkeit oder Unheilbarkeit in einem Sondergebiet wuerde die Ansteckungsgefahr fuer deutsche Ansiedler beseitigen. Diese Polen sollten fuer Arbeit verwendet werden. Nicht nur die tuberkulose-kranken Polen des Warthegaues, sondern auch diejenigen in Danzig-Westpreussen, im Verwaltungsbezirk Zichenau und in der Provinz Oberschlesien, sollten in derselben Ansiedlung isoliert gehalten werden. Er erklarte:

"Eine andere erwaegenswerte Loesung waere die ausnahmslose, strengste Isolierung aller ansteckend Erkrankten und unheilbar Schwindsuechtigen in Krankenanstalten. Diese Loesung wuerde zum verhaeltnismaessig raschem Tode der Kranken

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fuehren. Unter noetiger Hinzuziehung polnischer Aerzte und polnischen Krankenpersonals wuerde der Charakter eines reinen Todeslagers etwas abgeschwaecht werden."

Schliesslich befuehwortete BLOME als praetischste Loesung die Errichtung eines Sondergebietes, aehnlich dem einer Lepre-Kolonie. Innerhalb des Sondergebietes koennte die strengste Isolierung der ernstlich ansteckend Kranken leicht durchgefuehrt werden. Auf diese Weise wuerde die Ansteckungsgefahr beseitigt und das Problem der deutschen Schwindsuechtigen in der Provinz gemeistert werden. (Nr. 250, Anklage-Beweisstueck 203, R. 753-8). BLOME gab zu, dass der Ausdruck "Sonderbehandlung", den er in dem Brief gebrauchte, die Tuetung der tuberkulosekranken Polen bedeutete. (Blome R. 4791).

HIMMLER billigte in einem Brief an GREISER vom 3. Dezember 1942 BLOME's Plan, ein Sondergebiet fuer sowohl unheilbare als auch heilbare tuberkulose Polen zu errichten. Es waere moeglich, dieses Vorgehen fuer Propagandazwecke auszunuetzen, waehrend andererseits eine voellige Vernichtung der offenen Tuberkulosen zu lange dauern wuerde, da die Roentgemanuntersuchungen der polnischen Bevoelkerung mindestens sechs Monate erfordern wuerde. (Nr. 251, Anklage-Beweisstueck 204, R. 758).

Dass zum mindesten ein Teil der tuberkulosen Polen ausgerottet wurde, waehrend die anderen in Todeslager gebracht wurden, in denen man sie liess, bis sie starben, wird durch die eidesstattliche Erklaerung des Angeklagten Rudolf BRANDT bewiesen. (Nr. 441, Anklage-Beweisstueck 205, R. 760). BRANDT versuchte, diese eidesstattliche Erklaerung dadurch zu erklaeern, um nicht zu sagen zu widerlegen, dass er aussagte, er habe seine Erklaerungen an Hand der Dokumente abgegeben, die ihm in Vernehmungen im Vorverfahren vorgelegt worden seien. Er betonte jedoch, er bestuende darauf, dass der Wortlaut eines gewissen Satzes geaendert werde. Dieser Satz lautete urspruenglich: "Als Ergebnis der Anregungen die von

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BLOME und GRWISER gemacht wurden, wurden "8 - 10,000" Polen "getötet". Er ersetzte den Ausdruck "8 - 10,000" durch "zahlreiche". (R. Brandt, R. 4891, 4953). Dies beweist an sich, dass BRANDT seine Aussage nicht einzig und allein daraufhin machte, dass er sich auf den Inhalt der Beweisstücke verlies, welche ihm in den Verhören vorgelegt worden waren, die vor der Verhandlung stattfanden, (R. Brandt, R. 4891), sondern auch auf der Grundlage der Kenntnis, die er als HIMMLER's Mitarbeiter erworben hatte. Die Dokumente erbringen keinen Beweis fuer den Tod "zahlreicher" Polen. Ausserdem gibt BRANDT in diesen Aussagen an, dass Dr. BLOME HIMMLER von Zeit zu Zeit besuchte und GRWISER's Vorschlaege unterstuetzte. Es ist kein Beweisstueck als Beleg vorhanden oder im Besitz des Anklaggers, das als Grundlage dieser Angabe gelten koennte. Deshalb ist es klar oereichtlich, dass BRANDT's Darlegung auf der Kenntnis der Dinge begruendet ist, die ihn durch HIMMLER zugaenglich waren.

Ueber die Verbrechen, die den Gegenstand dieser Verhandlung bilden, ist Rudolf BRANDT zweifellos so gut unterrichtet, als nur irgend jemand in Deutschland. Es besteht durchaus kein Grund, den Aussagen, die BRANDT in der Voruntersuchung machte, nicht vollen Glauben zu schenken. Es ist kein Beweis dafuer erbracht worden, dass diese Erklarungen durch List oder Drohung erlangt wurden. Das Zeugnis, das BRANDT vor Gericht ablegte, kann in dem einen Satz zusammengefasst werden: "Ich erinnere mich an nichts". Mit Ausnahme einer Beschreibung von HIMMLER's Persoenlichkeit, begnuegte er sich mit Antworten auf Suggestivfragen seines Rechtsbeistandes, die darauf ausgingen ihn als gaenzlich unbedeutende Automaten hinzustellen, etwa als einen geschickten Einfaltspinsel. Seine, in der Vorverhandlung beschworenen Zeugenaussagen sind unbedingt schwerwiegender als der dumme Bloedsinn seiner Erklarungen vor Gericht.

BLOME leugnete, dass er je Pläne oder Vorschläge dafuer

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gemacht haette, dass Polen, die an ansteckender Tuberkulose litten, ausgerottet werden sollten und die uebrigen in Sondergebiete geschafft und ihrem Schicksal ueberlassen bleiben sollten (Blome, R. 4578, 4790-1), doch widerspricht dem seine eigene Beweisfuehrung.

B. Euthanasie-Programm. (Anklageschrift, Paragraph 9)

Die Anklage beruht hauptsächlich auf der Stellung des Angeklagten BLOME im Zusammenhang mit der Beschuldigung, fuer die Durchfuehrung des Euthanasie-Programms verantwortlich zu sein.

CONTI spielte beim Entwurf und bei der Durchfuehrung dieses Programms eine fuehrende Rolle. (Karl BRANDT, R. 2399-2400; Brack, R. 7552-4; Nr. 253, supra). BLOME machte geltend, dass CONTI bei dem Euthanasie-Programm nur in seiner Eigenschaft als Staatssekretaer im Innern Ministerium beteiligt war und dass er CONTI im Innern Ministerium nicht vertreten haette. Er besaegte ferner, dass die Reichsaerztekammer, deren stellvertretender Leiter er unter CONTI war, mit dem Euthanasie-Programm nichts zu tun hatte..

Dass dies nicht der Fall war, ergibt sich aus BLOME's eigenem Zeugenbeweis. Von der deutschen Oeffentlichkeit wurde 1940 und 1941 bei der Reichsaerztekammer und dem Reichsgesundheitsamt mehrfach Klage gefuehrt. (Blome, R. 4581). Als BLOME von diesen Beschwerden Kenntnis erhielt, war er der Meinung, dass dies eine wichtige Angelegenheit fuer die Reichsaerztekammer waere und ersuchte CONTI, deshalb einzugreifen. Er sagte in diesem Zusammenhang folgendes aus:

"Ich sagte in dieser Hinsicht etwas zu CONTI, und ersuchte, dass wir ueber die Reichsaerzstofuehrer an dieser Sache Anteil nehmen sollten. Letzten Endes wurden die Aerzte defuer einstehen muessen, und man wuerde sagen, die Aerzte waren defuer verantwortlich und ich wollte nicht, dass es dazu kam". (Blome, R. 4582).

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Dass das Euthanasie-Programm das Ansehen der Reichsaerztekammer in Mitleidenschaft zog, wird ferner durch die Tatsache bewiesen, dass CONTI 1941 den Angeklagten Karl BRANDT aufforderte, den Leitern dieser Koerperschaft eine Vorlesung ueber Euthanasie zu halten. Dieser Vortrag wurde tatsaechlich durch den Angeklagten BRACK im Aerzstehaus in Muenchen gehalten. BLOME gab zu, bei der Vorlesung anwesend gewesen zu sein. (Blome, R. 4586). Bei seinem eigentlichen Verhoer sagte er aus:

"Nach der Muenchener Zusammenkunft schlug ich Herrn Dr. CONTI erneut vor, dass wir von der Aerztekammer versuchen sollten, einzugreifen. (Blome, R. 4567, Unterstreichung vom Angeklagten).

Nichts koennte klarer sein, als die Voraussetzung, dass das Euthanasie-Programm in Deutschland ohne die Mitarbeit von solchen aerztlichen Fuehrern der Partei wie BLOME unmoeglich gewesen waere. Das Euthanasie-Programm selbst wurde weitgehend von Parteistellen unterstuetzt. Tatsaechlich wurde ein grosser Teil der Verwaltungsmaechine des Programms unter BOUHLER aufgebaut, dem Chef der Fuehrerkanzlei der NSDAP. Dies war eine Nazi-Parteistelle, kein Staatsorgan. BOUHLER, Mitdirektor des Programms neben BRANDT und BRACK, waren Partei- nicht Staatsbeaemte. Das Reichministerium des Innern spielte als Staatsorgan sicherlich eine fuehrende Rolle in der Euthanasie, aber der Beweis zeigt, dass Nazi-Parteistellen wesentlich mehr damit zu schaffen hatten. Das ganze Nazi-Fuehrerschaftcorps, von dem die Fuehrerkanzlei der NSDAP einen Teil bildete, war mitschuldig, auch wenn aus keinem anderem Grunde als dem, oeffentliche Kritik zu unterdruecken. Doch taten sie viel mehr als das. Die Untersuchung in Sachen U.S. v. Klein et al. beweist, dass Gauleiter SPRINGER auf die Euthanasie, wie sie in KdF ausgefuehrt wurde, betraechtlichen Einfluss

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ausübte. (Nr. 1115, anklage-Beweisstück 415, R. 1781). Die Gaulleiter waren Partei- nicht Staatsbeamte. BLOME's nahe amtliche Verbindung mit den Gaulleitern ist ersichtlich aus seiner verbrecherischen Zusammenarbeit mit Gaulleiter GREISER, in Verbindung mit der Ausrottung schwindgüchtiger Polen. Es ist gänzlich unmöglich, dass das Euthanasie-Programm von der Partei allein hätte verwirklicht werden können, ohne den tatigen Beistand und die Mitarbeit BLOME's als stellvertretender Reichsleiter des Gesundheitsamtes der NSDAP. Als solcher ^{war} er ein einflussreiches Mitglied des Führerkorps der Partei, das vom Internationalen Militärgerichtshof als verbrecherische Organization erklärt worden ist. (Prozess der Hauptkriegsverbrecher, Seiten 257 - 262). Man könnte ebenso gut sagen, dass Euthanasie, einer Verordnung des Praesidenten gemäss, in öffentlichen Heilanstalten der Vereinigten Staaten planmässig ausgeübt werden könnte, ohne Kenntnis und Unterstützung der verantwortlichen Beamten der amerikanischen Ärztevereinigung oder der Abteilung des Gesundheitsamtes. Gemäss den Verordnungen des Kontrollratgesetzes Nr. 10, Paragraph II, Absatz 2, ist BLOME unlogbar schuldig, Mitglied einer Gruppe oder Koerperschaft (Nazi Führerkorps) gewesen zu sein, die an der Ausführung des Euthanasie-Programms Teil hatte. Dass BLOME ein wichtiges und einflussreiches Mitglied dieser Gruppe war, ist aus seiner früheren und beständigen Unterstützung der Nazi-partei, sowie ihrer verderblichen Lehren ersichtlich. (Blome, R. 4667-4701).

Ausserdem ist fuer BLOME's Einwand, dass CONTI in seiner Eigenschaft als Reichsgesundheitsführer sich nicht am Euthanasie-Programm beteiligte, keineswegs der Beweis erbracht worden. LAMMERS, der Chef der Reichskanzlei, die massgebende Grösse fuer verfassungsrechtliche Frage im Nazi-Deutschland,

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BLOME

(Lammers, R.2662), leitete gewöhnlich die in seinem Amt eingehenden Berichte ueber das Euthanasie-Programm an den Reichsgesundheitsfuhrer weiter und nicht an den Staatssekretaer. Diese Tatsache, bewiesen durch 2 Briefe, die LAMMERS an den Justiz-Minister GUERTNER sandte, (621-PS, Anklage-Beweisstueck 395, R.1681, 620-PS, Anklage-Beweisstueck 396, R.1681) zeigt ganz klar an, dass die Unterschiedlichkeit in COMTE's Stellungen gar nicht bestand, wie BLOME zum Zwecke seiner Verteidigung festzustellen versuchte.

Von Anfang bis zum Ende des verbrecherischen Euthanasie-Programms war BLOME der stellvertretende Leiter der Reichs-aerztekammer, stellvertretender Reichsgesundheitsfuhrer und stellvertretender Leiter des nationalsozialistischen Aerztobundes. Er wusste um das Programm und war sich klar darueber, dass es ungesetzlich war. (Blome R.4583). Er unterliess es nicht nur, das Programm zu verhindern, sondern seine eigenen Schriften zeigen, dass er es unterstuetzt hat. In seinem Buch "Der Arzt im Kampf", das im Oktober 1941 veroeffentlicht wurde, als das Euthanasie-Programm schon zwei Jahre durchgefuehrt worden war, sagte er:

"Wir hielten es fuer unsinnig, dass zum Beispiel wahnsinnige Menschen, die ihr eigenes Leben und das anderer bedrohten, oder hochgradig Schwachsinnige, die sich nicht einmal sauber halten oder allein essen koennen, aufgezogen und mit vieler Muehe und grossem Kostenaufwand am Leben erhalten wurden. In der freien Natur koennten diese Geschoeepfe nicht bestehen und wuerden nach dem Naturgesetz ausgeloescht werden. Wir haben auch nicht verstehen koennen, dass charakterlich- und geistig minderwertige Personen, a-soziale Geschoeepfe, die einen Mord begangen hatten, zwar zum Tode verurteilt, aber dann im Prinzip begnadigt und auf Kosten der Oeffentlichkeit in Zuchthaeusern am Leben erhalten wurden; wir fragten uns auch in ganz anderen Faellen, in denen es sich nicht um das Ausloeschen minderwertiger Leben handelte, ob man den Aerzten nicht gesetzlich die Moeglichkeit geben sollte, ein unglueckliches Leben

TRANSLATION OF CLOSING BRIEF FURT BLOME
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BLOME

vorzeitig zu beenden. Wir denken dabei an Schwerleidende, unheilbare Kranke, die bis zu ihrem Tode nur ungeheure geistiges und körperliches Leiden zu erwarten hatten, und die von sich aus den Arzt baten, sie von ihren Leiden zu befreien." (Blome, Beweisstück 1, R. 4764).

Die Aussage zeigt zum mindesten, dass BLOME mit Plänen und Unternehmungen in Verbindung stand, seine Zustimmung gab, und Mitglied einer Körperschaft oder Gruppe war, die sich mit der Ausführung des Euthanasie-Programms befassten.

Für eine Beschreibung des Verbrecherischen im Euthanasie-Programm wird auf die kurze Zusammenfassung der Anklage gegen den Angeklagten Karl BRANDT hingewiesen.

C. Medizinische Versuche.

1. Versuche ueber Bakterienkriegsfuehrung.

Die Bakterienkriegsfuehrung wurde im Jahre 1943 eine Angelegenheit von bedeutendem Interesse fuer militaerische Kreise in Deutschland. Im Mai jenes Jahres wurde BLOME von Reichsmarschall GOERING mit der Forschung auf diesem Gebiet beauftragt: (Blome, R. 4604; Fr. 675, Anklage-Beweisstück 37, R. 142). BLOME fuehrte diesen Auftrag ... unter dem Deckmantel seiner Stellung als Beauftragter fuer Krebsforschung im Reichsforschungsrat aus. (Blome, R. 4594).

In einer Geheimversammlung, die das Oberkommando der Wehrmacht im Juli 1943 einberief, wurde erklart, dass ein Institut in Posen errichtet werden sollte, in welchem Bakterienkulturen in grossem Massstab erzeugt und wissenschaftliche Versuche ausgefuehrt werden sollten, um die Moeglichkeiten ihrer Anwendung zu pruefen. Dieses Institut stand unter BLOME's Aufsicht. (Schreiber, Blome Doc. 7, Blome Beweisstück 11, R. 4621).

Unter dem Namen "Blitzableiter" wurde ein Sonderausschuss

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BLOME

zur Forschung auf dem Gebiete der Bakterien-Kriegsfuehrung gegruendet. BLOME war Mitglied dieses Ausschusses. In einer Sitzung, die am 24. September 1943 stattfand, wurden die Versuche auf dem Gebiet der menschlichen Bakteriologie besprochen. Da es nicht bekannt war, unter welchen Bedingungen eingeatmete Aerosole oder verspritzte kleine Tropfen gewisser krankheitserregender Bazillen im Menschen eine Krankheit hervorrufen, befurwortete BLOME die Menschenversuche. (Nr. 1308, Anklage-Beweisstueck 325, R. 1484). In einer Versammlung am 23. Februar 1944, wies BLOME nochmal auf die Notwendigkeit der Versuche an Menschen hin, und berichtete, dass eine neue bakteriologische Waffe ausgearbeitet und geprueft werden muesse. Feldmarschall KEITEL haette seine Zustimmung zu einem unter seiner Kontrolle stehenden Bau des Instituts in Posen gegeben und sowohl HIMMLER als auch der Angeklagte Karl BRANDT haetten ihm ihre Unterstuetzung zugesichert. BLOME gab auch an, dass eine Seuche eine ernste Gefahr bedeuten koenne, und es waere daher notwendig, Seuchenimpfstoffe durch Versuche an Menschen zu erproben. Auch muesse die Wirkung einer Hoechst-dosis gewisser Gifte durch Versuche an Menschen ausprobiert werden. (Nr. 1309, Anklage-Beweisstueck 326, R. 1487).

Um seine Aufgabe durchzufuehren, erbat BLOME von dem Angeklagten MRUGOWSKY die Zusammenstellung des wichtigsten wissenschaftlichen Materials ueber Bakterien-Kriegsfuehrung. MRUGOWSKY fertigte hierueber eine Aktennotiz an, von welcher BLOME eine Durchschrift erhielt. (Nr. 114, Anklage-Beweisstueck 324, R. 1481; Blome R. 1620).

SCHREIBER bezeugte vor dem Internationalen Militaergerichtshof, dass BLOME ihn im Maers 1945 in der medizinischen Militaer-Akademie in Berlin aufsuchte. Er kam von Posen und war sehr aufgereggt. Er sagte, der Vormarsch der Roten Armee habe ihn zur Flucht aus seinem Institut gezwungen. Er war

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BLOME

besorgt, dass die Einrichtungen fuer Menschenversuche im Institut von den Russen als solche erkannt werden wuerden. Er haette versucht, sie zerstören zu lassen, jedoch erfolglos. SCHREIBER gab an, dass er leider gezwungen sei, BLOME einen Platz zur Fortfuehrung seiner Arbeiten in Sachsenburg zur Verfuegung zu stellen. (BLOME, Doc. 7, Blome Beweisstueck 11, R. 4621). SCHREIBER bezeugte weiterhin dass: "Die ganze Sache infolge all dieser Verzögerungen niemals zur Ausfuehrung kam." Diese Aussage bezieht sich auf die von Deutschland geplante Anwendung einer Bakterien-Kriegsfuehrung und nicht auf die von BLOME ausgefuhrten medizinischen Versuche.

In seinem Urteilspruch stellte der Internationale Militaergerichtshof auf Grund eines Tatsachenbefundes, auf dem sich die Anklage stuetzt, fest, dass im Interesse einer Bakterien-Kriegsfuehrung russische Kriegsgefangene fuer medizinische Versuche, die meist einen toedlichen Ausgang nahmen, verwandt wurden. (Internationaler Militaer-Gerichtshof, Fall Nr. 1, R. 16891). Ein Fernschreiben von SIEVERS an Rudolf BRANDT vom 18. August 1944 beweist, dass BLOME tatsaechlich die vorgeschlagenen Giftversuche an Menschen ausfuhrte. (Nr. 641, Anklage-Beweis stueck 327, R. 1493). Laut dieser Mitteilung hat BLOME gefragt, ob er HIMMLER ueber die Giftversuche als weitere Ausfuehrung zum Bericht vom 21. Juli Meldung erstatten duerfe.

BLOME wollte das Gericht glauben machen, dass er niemals Versuche an Menschen ausgefuehrt haette. Obwohl er bestaendig davon gesprochen habe - dabei an freiwillig sich zur Verfuegung Stellende denkend - weere er doch nie dazu gekommen, die Versuche auszufuehren. Er bezeugte dass HIMMLER ihn Mitte 1943 beauftragt haette, solche Impfstoffe durch Versuche an Menschen zu erproben. Man haette ihm von den Typhus-Impfstoffversuchen in Buchenwald berichtet und ihm gleichzeitig Raemlichkeiten und Einrichtungen in einem Konzentrationslager angeboten.

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BLOME

Dies, sagte er, habe er wegen seiner "geistigen Ablehnung" zurueckgewiesen. Man kann einer solchen Erklaerung wenig Glauben schenken, die von einem Manne kommt, der so eng mit RASCHER zusammenarbeitete. (siehe unten). BLOME sagte, dass er die Durchfuehrung dieser Experimente in seinem Institut in Kesselstedt bei Posen geplant habe. (Blome, R. 4610-1). BLOME bot RASCHER an, mit ihm in Kesselstedt zusammenzuarbeiten. (3546-PS), Anklage-Beweisstuock 123, R. 972, Eintragung fuer den 20. April).

Der angeklagte SIEVERS erklaert in seiner eidesstattlichen Aussage, dass BLOME sich bei vielen Gelegenheiten sich mit RASCHER beriet und ihn auch dort besuchte. Ferner sagt er:

"Ende 1943 traf ich BLOME bei HIMMLER wieder. Ich kann mich erinnern, dass BLOME HIMMLER im Laufe dieser Unterredung darum bat, ihm RASCHER fuer seine Forschungsarbeit in seinem Institut in Kesselstedt zuzuweisen. Bei dieser Konferenz wurde entschieden, dass RASCHER in enger Zusammenarbeit mit BLOME arbeiten sollte. RASCHER sollte BLOME ebenfalls auf dem Gebiete biologischer Forschung zu Hand gehen."
(Nr. 473, Anklage-Beweisstuock 237, R. 951).

BLOME konnte keine zufriedenstellende Erklaerung darueber abgeben, wie es kam, dass er das Pestserum niemals in Menschenversuchen, wie befohlen, ausprobierte, obgleich er ueber zwei Jahre lang an Fragen der bakteriologischen Kriegsfuehrung arbeitete. Ja, man musste seiner Aussage nach zu dem Schlusse kommen, dass er nichts mit Bakterien-Kriegsfuehrung zu tun hatte.

Wenn es auch nicht von wesentlicher Bedeutsamkeit ist, so beweist das Aktenmaterial doch, dass die Forschung fuer Bakterien-Kriegsfuehrung sich keineswegs auf Abwehrmassnahmen beschraenkte. In der Konferenz des Blitzableiter-ausschusses vom 21. September 1943 erklaerte einer der Teilnehmer, Ministerialrat SCHULZ,...

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BLOME

"Wir koennen nicht die Rolle unbeteiligter Zuschauer spielen; wir muessen auch die Massenanwendung bakterieller Kampfmittel vorbereiten. Besonders Amerika musste gleichzeitig mit menschlichen und tierischen Krankheitserregern und Pflansenparasiten angegriffen werden. Der Fuehrer sollte fuer den Plan gewonnen werden. Zu diesem Zwecke sollten die Wissenschaftler einen kurzen aber vollstaendigen Bericht ueber die feindlichen Vorbereitungen und ueber die Sabotage-taetigkeit des Feindes mit Bakterien und Giften vorlegen. Weiterhin sollten sie die Anwendungsmethoden angeben und die erforderliche Anzahl des Personals, sowie der Laboratorien, Instrumente, Flugzeuge, Unterseebote usw. fuer Vorbereitung und Angriff." (Fr. 1308, siehe oben).

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BLOME

2. Polygal Experimente.

Um die Wirksamkeit des Blutgerinnungsmittels Polygal zu prüfen, führte RASCHER Experimente durch, in denen Insassen des Konzentrationslagers Dachau erschossen wurden. RASCHER's Onkel beschreibt in seiner eidesstattlichen Aussage die moerderischen Experimente, welche sein Nefte unternahm. Im August 1943 besuchte er RASCHER in Dachau und als dieser einmal nicht im Büro war, kam ihm ein Bericht unter die Augen, den er wie folgt wiedergibt:

"Er nahm Bezug auf einen Bericht ueber die Erschiessung (Hinrichtung) von vier Menschen zu Versuchszwecken mit dem haemostatischen Praeparat "Polygal 10". Soweit ich mich erinnern kann, waren diese ein russischer Kommisar und ein Kretin, ich habe vergessen, wer die beiden Anderen waren. Ein SS-Mann, auf einem Stuhl stehend, schoss den Russen von oben durch die rechte Schulter. Die Kugel trat in der Milzgegend heraus. Er wurde beschrieben, wie der Russe (krampfartig) zusammensuckte, sich dann auf einen Stuhl setzte, und nach ungefahr zwanzig Minuten starb. Im Sektionsprotokoll wurden die Verletzungen der Lungengefaesse und der Aorta beschrieben. Weiterhin war beschrieben, dass diese Risse durch harte Blutgerinnsel tamponiert waren. Dies koennte die einzige Erklaerung fuer die verhaeltnismaessig lange Spanne Lebenszeit nach dem Schuss gewesen sein." (Nr. 1424, Anklage-Beweisstück 462, R. 4773-4).

Diese Aussage wird durch die Aussage des Zeugen STOEHR (R. 587) und das Affidavit FOHL's (Nr. 065, Anklage-Beweisstück 127, R. 410) unterstuetzt. Selbst der Angeklagte GEBHARDT gab in seiner Aussage zu, dass ihm bekannt gewesen sei, dass RASCHER Blutgerinnungsexperimente an Insassen von Konzentrationslagern gemacht habe, die zu diesem Zwecke erschossen wurden. (Gebhardt, R. 4240-1).

Das Beweismaterial zeigt, dass BLOME mit RASCHER in der Polygal-Forschung zusammenarbeitete. Diese Zusammenarbeit begann zu mindesten schon Mitte des Jahres 1943 im Zusammenhang mit der Krebsforschung. (Nr. 473, Anklage-Beweisstück 237, R. ; siehe auch Nr. 538, Anklage-Beweisstück 128, R. , Eintragungen vom 18. Februar, 7. April, 14. April und 26. Juni 1943). Der

TRANSLATION OF CLOSING BRIEF KURT BLOME
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BLOME

Angeklagte SIEVERS erklärte in seiner eidstattlichen Aussage dass; "BLOME genaue Kenntnis von den Blutgerinnungsexperimenten in Dachau hatte. Er erhielt Berichte von RASCHER und durfte wohl ueber diese Angelegenheiten vollstaendig im Bilde gewesen sein." (Nr. 437, siehe oben). BLOME gab zu, dass RASCHER von HIMMLER den Auftrag erhalten habe mit ihm auf dem Gebiete der Blutgerinnungsforschung zu arbeiten. (R. 4642). Einer der Mitarbeiter RASCHER's in der Polygal-Forschung war ein Insasse des Konzentrationslagers Dachau mit Namen Robert FEIX. Mit seinem Briefe vom 15. September 1943 forderte RASCHER SIEVERS auf, an BLOME heranzutreten, damit dieser die Freilassung von FEIX bewirken sollte und er wieder in seiner fruhere Kategorie als Halbarier zurueckversetzt wurde. RASCHER erklärte in seinem Brief, dass "BLOME mit diesz zueglich grosse Hoffnungen gemacht hat". (Nr. 611, Anklage-Beweisstück 239, R. 955). Dies beweist, dass BLOME schon im Sommer 1943 mit RASCHER in der Polygal-Forschung zusammenarbeitete. Es ist wohl sicher, dass BLOME sich niemals dazu hergegeben haette, an dieser Arbeit mitzuhelfen, ohne vorher genauestens zu wissen, was schon getan worden war, um das Polygal auszuprobieren.

In der letzten Haelfte des Jahres 1943 schrieben RASCHER und Dr. HAFERKAMP eine Arbeit ueber Polygal. Diese unterscheidet klar zwischen Menschenexperimenten, um die Wirkung des Polygal auszuprobieren und klinischen Pruefungen. Sie sagt: "Bevor/^{wir} die klinische Anwendung des Praeparates versuchten und es erprobt hatten, wurde es hinsichtlich seiner Beeinflussung der Blutgerinnungs- und Blutungszeitdauer in gruendlichen Experimenten an lebenden Menschen ausprobiert." Es wurden Kurven beigefuegt, die die Reaktion des Polygal auf das Blut und das Blutgerinnen anzeigten. Die Arbeit besprach weiterhin klinische Beobachtungen waehrend Operationen. (Nr. 438, Anklage-Beweisstück 240, R. 956). Die in dieser Arbeit

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BLOME

erwähnten Experimente waren offenbar solche, bei welchen Insassen erschossen wurden. Sie waren in der Arbeit nicht als solche beschrieben, da diese veröffentlicht werden sollte. BLOME versicherte, dass die einzigen Experimente, die ihm bekannt gewesen seien, solche waren, bei denen ein Kubikzentimeter Blut entnommen wurde, um zu sehen, wie schnell dies in einem Reagenzglas gerann. (R.4643). Solche Proben können nicht als Experimente bezeichnet werden. Man kann sich unmöglich vorstellen, dass RASCHER einen Blutgerinnungsfaktor, der auf dem Schlachtfeld bei verwundenen Soldaten ~~verwandt~~ werden sollte, auf solche Weise ausprobiert haben würde. Und dies war BLOME damals besser bekannt als es dem Gerichtshof heute ist. Er wusste, dass RASCHER Kälteexperimente ausgeführt hatte, die den Tod zur Folge hatten. Er war ueber die Buchenwald-Typhusexperimente unterrichtet. (Blome R.4640). Uebrigens hat diese ausweichende Erklärung BLOMES nichts mit den Experimenten zu tun, um die Wirkung des Polygal auf Blutungen auszuprobieren; die Blutprobe in einem Reagenzglas bezieht sich nur auf die Blutgerinnungsreaktion, nicht jedoch auf die Reaktion hinsichtlich der Blutungen. So musste er zu dieser unglaubwürdigen Erklärung hinzufügen, dass RASCHER ihm einmal sagte, dass er oder ein anderer Arzt den Oberschenkel einer Person unter Narkose gerieben hatte, bis sich Blut zeigte, und dass er dann die Wirksamkeit des Polygal ausprobiert hatte. Aber BLOME sagte "ich habe seine Bemerkung nicht fuer Ernst genommen". (R.4635). Das, was man nicht ernst nehmen kann, ist BLOMES Vorgabe des Nichtwissens um die Experimente, an denen er, wie die Dokumente erweisen, ein direktes persoenliches Interesse hatte.

BLOME gab seine Zustimmung zur Veröffentlichung der oben erwähnten Arbeit in der Münchener Medizinischen Wochenschrift (Blome R.4639; NO-616, Anklagebeweistueck 244, R.964). GRAWITZ sowohl als POHL erhoben Einspruch gegen die Veröffentlichung des Artikels, weil sie nicht hinzugezogen worden waren und weil Dachau 3 Mal darin erwähnt wurde, sowie Dinge,

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BLOME

die auf Menschenversuche schliessen liessen. (NO-614, Anklage-
NO-615, Anklagebeweisstueck 246, R.966)
Beweisstueck 245, R.964 / Beide Maenner wussten um die moorde-
rischen Experimente, die RASCHER ausfuehrte, um das Polygal aus-
zuprobieren. GEBHARDT wusste darum. BLOME jedoch verlangte vom
Gerichtshof, dass er glauben solle, er sei zu naiv gewesen, um
dies gewusst zu haben; ja, dass er es nicht geglaubt habe, als
RASCHER ihm sagte, er habe es vorsatzlich unternommen, die Haut
an dem Bein eines Insassen wegzureiben, um das Polygal auszupro-
bieren.

Am 23. Februar 1944 erhielt RASCHER vom Reichsforschungsrat
den Auftrag zur Polygalforschung. (NO-656, Anklagebeweisstueck
247, R.967). BLOME gab zu, dass er es war, der diesen Auftrag
erteilte. (Blome R.4634). Das Tagebuch SIEVERS zeigt, dass die
Polygalproduktion RASCHERS am 1. February 1944 als kriegswirt-
schaftliche Industrie beim Reichsforschungsrat registriert worden
war. Am 22. Februar hatte SIEVERS eine Konferenz mit RASCHER,
anlaesslich welcher Lieferungsfragen zur Herstellung dieses Pro-
duktes, Experimente von BLOME, und der Polygalbericht fuer den
angeklagten GEBHARDT erortert worden waren. Am 24. Februar fuehrte
SIEVERS ein Telefongespraech mit BLOME, in welchem BLOME ihm mit-
teilte, dass HIMMLER eine Anordnung erlassen haette betreffs
BLOMES gemeinsamer Arbeit mit RASCHER in Dachau. (3546-PS, An-
klagebeweisstueck 123, R.972). BLOME gab zu, dass HIMMLER ihn
aufgefordert habe, mit RASCHER an der Polygalforschung zusammen-
zuarbeiten. (4510). Als FLORENZ RASCHERS Arbeit am 31. Maerz
uebernahm, (Ibid R.973), erhielt BLOME sein Interesse an Polygal
aufrecht, wie aus seinem Telefongespraech mit SIEVERS am 24. Juli
ueber dieses Thema hervorgeht. (Ibid. R.976).

3. Lost Gas Experimente. (Anklageschrift Par.6 (d)). Vom Winter
des Jahres 1942 an bis zum Sommer 1944 wurden Experimente an Kon-
zentrationlagerinsassen ausgefuehrt zum Zwecke der Ermittlung der
wirksamsten Behandlung von Wunden, hervorgerufen durch Lost
(Senf) Gas.

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BLOME

Diese Experimente wurden ueberwiegend im Natzweiler Konzentrationslager unter der Leitung von Dr. HIRT von der Strassburger Universitaet durchgefuehrt. Bezueglich einer ausfuehrlichen Beschreibung dieser Experimente wird auf die Anklageschrift gegen SIEVERS verwiesen.

HIRT begann seine Gasexperimente im November 1942 in Natzweiler. (Nr. 098, Anklage-Beweisstueck 263, R. 1028). Sie wurden waehrend des ganzen Sommers 1944 fortgesetzt. (Holl, R. 1058). Waehrend dieser Periode wurden an ungefaehr 220 Insassen russischer, polnischer, tschechischer und deutscher Nationalitaet Gasexperimente vorgenommen. 50 dieser Insassen starben. Sie hatten sich nicht freiwillig fuer diese Experimente zur Verfuegung gestellt. (Holl, R. 1052, 1057).

Im Oktober 1943 erliess der Angeklagte BLOME in seiner Eigenschaft als Beauftragter fuer die Krebsforschung im Reichsforschungsrat eine Anweisung an HIRT zur Unterstuetzung seiner Gasexperimente. Dieses ist bewiesen durch die Karteikarte ueber BLOME's Forschungsauftraege im Reichsforschungsrat, wo BLOME's Auftrag an HIRT unter der SS-Vorzugsnummer 0329 vermerkt ist. Der Auftrag wurde eingetragen unter der Nummer 1881-15, (Nr. 690, Anklage-Beweisstueck 120, R. 373). BLOME gab zu, dass Eintragungen mit der Anmerknungsnummer 15 sich auf von ihm erlassene Auftraege bezogen. (R. 4531; Blome Doc. 21, Blome Beweisstueck 5, R. 4535). Das Datum dieses von BLOME an HIRT ergangenen Forschungsauftrages kann unter Bezugnahme auf eine Aktennotiz von SIEVERS ueber den am 4. Oktober 1943 von BLOME an RASCHER erlassenen Auftrag, bezueglich Kaelteexperimente, genau festgestellt werden. Dieses Kaelteexperiment trug die SS-Vorzugsnummer 0328. Da die Anweisung an HIRT die SS-Vorzugsnummer 0329 trug, ist es offensichtlich, dass die Auftraege zum gleichen, oder ungefaehr zum gleichen Zeitpunkt erlassen wurden. (Nr. 656, Anklage-Beweisstueck 247, R. 966).

TRANSLATION OF CLOSING BRIEF KURT BLOME
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BLOME

Die Verteidigung hat offensichtlich keine Einwendungen gegen die auf diese Weise vorgenommene Feststellung des Zeitpunktes vorzubringen. (Blome R. 4540-1).

Obwohl BLOME in Abrede stellte, jemals Forschungsaufträge bezüglich Gasexperimente an HIRT erlassen zu haben, blieb er jede Erklärung über die Eintragungen in seine Karteikarte im Reichsforschungsrat schuldig. Er behauptete, dass dies ein Fehler gewesen sein musste. Er versuchte, die Verantwortung für den Auftrag auf Professor SAUBERBRUCH abzuwälzen, welcher medizinische Fragen allgemeiner Art im Reichsforschungsrat unter sich hatte und dessen Aufträge unter der Registrierungsnummer 10 - im Gegensatz zu Nummer 15 von BLOME - herausgegeben wurden. Die Karteikarte von SAUBERBRUCH wurde vorgelegt; sie zeigte, dass er unter der SS-Vorzugsnummer 0323 und der Registrierungsnummer 548/10 einen Gasforschungsauftrag an HIRT erteilt hatte. (Blome Doc. 19, Blome Beweisstück 3, R. 4531). Die Verschiedenheit in den Vorzugs- und Registrierungsnummern schließt jedwede Möglichkeit eines Irrtums aus.

BLOME wollte dem Gericht glaubhaft machen, dass sowohl der Gasauftrag an HIRT als auch ^{der} Keolteversuchsauftrag an RASCHER, die beide auf der Karteikarte unter den Vorzugsnummern 0328 bzw. 0329 erscheinen, in Wirklichkeit in SAUBERBRUCH's Tätigkeitsbereich fielen und nicht von ihm herausgegebene Aufträge gewesen waren. (Blome, 4529 und folgende). Diese Erklärung entbehrt jeglicher Logik. Aus den Akten geht einwandfrei hervor, dass sowohl BLOME als auch SAUBERBRUCH Aufträge an HIRT erteilten. Die entsprechenden Aufträge trugen nicht nur verschiedene Vorzugs- sondern auch verschiedene Registrierungsnummern. Im Gegensatz zu BLOME's Erklärung, dass die Gasforschung überwiegend in SAUBERBRUCH's Gebiet fiel, ist es ^{ganz} offensichtlich, dass dies eine Angelegenheit war, an der BLOME im Hinblick auf seine sich

TRANSLATION OF CLOSING BRIEF KURT BLOME
CONTINUED

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BLOME

auf die bakteriologische Kriegsführung beziehenden Arbeiten persönlich sehr interessiert war. Das Gericht wird sich entsinnen, dass diese Arbeit unter dem Deckmantel seiner Stellung als Beauftragter fuer die Krebsforschung durchgefuehrt wurde. Es ist fernerhin bewiesen worden, dass BLOME, im Gegensatz zu SAUERBRUCH, in Verbindung sowohl mit RASCHER als auch mit HIRT stand.

BLOME's Teilnahme an den Experimenten HIRT's mit Lost-Gas und seine Kenntnisse davon wird ferner durch die Eintraege in SIEVERS's Tagebuch vom 2. und 28. Februar und 3., 4. und 8. Maerz 1944 bewiesen. Am 2. Februar trat SIEVERS mit dem Reichsforschungsrat in Verbindung, um zu ermitteln, wer von ihm mit der Durchfuehrung von Lost-Gas-Forschungsarbeiten beauftragt worden war, um diese Wissenschaftler zu einer Besprechung zusammenberufen zu koennen. Diese Besprechung wurde am 28. Februar im Reichsforschungsrat abgehalten; an ihr nahmen BLOME, RASCHER, THIESSEN und SIEVERS teil. Fragen der Lost-Gas-Forschung wurden erortert. Eine aehnliche Besprechung fand am 3. Maerz 1944 statt. Am 4. Maerz ordnete HILF eine Versammlung zwischen HIRT und RASCHER - neben Anderen - an, die am 8. Maerz stattfinden sollte. Auf dieser Versammlung vom 8. Maerz gab HIRT einen Bericht ueber seine Lost-Forschungsarbeiten. (3546-PS, Anklage-Beweisstueck 123, R. 382).

HIRT's Bericht ueber seine Gasexperimente wurde im Jahre 1944 geschrieben und erwahnt schwere, halbschwere und leichte Wunden, die durch Lost-Gas verursacht wurden. Der Bericht zeigt eindeutig, dass die Versuche an Menschen vorgenommen wurden. (Nr. 099, Anklage-Beweisstueck 268, R. 1035). Sicherlich erhielt der Mann, der diese Arbeiten unterstuetzte, eine Durchschrift dieses Berichtes.

4. Kaelte-Experimente. Anklageschrift, Paragraph 6 (b).

Bezuglich einer ausfuehrlichen Beschreibung der Kaelteexperimente wird auf die Anklageschrift gegen SIEVERS verwiesen.

Es ist bewiesen, dass BLOME mindestens schon im Fruehjahr 1943

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BLOME

in Verbindung mit RASCHER stand. Am 11. April 1943 sandte RASCHER an HIMMLER einen Bericht ueber Kaelteexperimente, die an Menschen vorgenommen wurden, die der freien Luft ausgesetzt waren. Im selben Brief drueckte er seine Hoffnung aus, HIMMLER Anfang Mai seine Habilitationsarbeit uebermitteln zu koennen und erklaerte, dass Professor PFANNENSTIEL in Marburg bereit sei, sie als geheime Habilitationsarbeit anzuerkennen, sodass RASCHER Universitaetsdozent werden koennte. (Nr. 240, Anklage-Beweisstueck 112, R. 354). Am 17. Mai 1943 legte RASCHER ein Memorandum ueber seine medizinische Vorbildung vor und erwahnte besonders die Hoehen- und Kaelteexperimente. Er fuhrte aus, dass weitere Kaelteexperimente notwendig seien und schloss mit der Bemerkung, dass er, wie vereinbart, an das Universitaetsinstitut fuer Luftfahrtmedizin und Hygiene (Professor Dr. PFANNENSTIEL, Marburg) zwecks weiterer wissenschaftlicher Ausbildung zurueckzukehren gedenke. Ein Forschungsprogramm waere bereits mit PFANNENSTIEL aufgestellt worden. (Nr. 230, Anklage-Beweisstueck 115, R. 356). Dass der Angeklagte BLOME war, der RASCHER und PFANNENSTIEL zusammenbrachte, wird durch SIEVERS' Brief vom 27. September 1943 an BRANDT bewiesen. Dieser war die Antwort auf einen Brief vom 12. August 1943 von BRANDT, der sich auf die Ernennung RASCHER's zum Dozenten bezog. SIEVERS erklaerte, dass er darueber bereits eine Besprechung mit BLOME, MENTZEL und RASCHER gehabt und dass BLOME mit PFANNENSTIEL in Marburg gesprochen haette. (Nr. 229, Anklage-Beweisstueck 118, R. 367).

Aus diesen Schriftstuecken geht hervor, dass BLOME zumindest schon seit April 1943 RASCHER unterstuetzt hat, als die Trocken-Kaelteexperimente noch im Gange waren. RASCHER hatte schon durch BLOME mit PFANNENSTIEL Fuehlung genommen.

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BLOME

BLOME behauptete, dass er von diesem fruehen Zusammentreffen RASCHER's mit PFANNSTIEL nichts gewusst habe, und dass es ein reiner Zufall war, dass er auch auf PFANNSTIEL stiess. (R. 4516). BLOME's Aussage ueber diese Zusammenarbeit ist Unsinn. Er gab zu, dass er es einrichtete, dass RASCHER eine Bescheinigung als Spezialist erhielt, die eine Vorbedingung fuer die Habilitierung war und dass der Vorschlag, an PFANNSTIEL heranzutreten, von ihm ausging. (R. 4312-3). Aber, so sagte er, RASCHER habe ihm gesagt, dass er auf Grund seiner Arbeiten am Polygal habilitieren wolle. Er habe die Habilitierungstheze erhalten, bestritt aber, sie gelesen zu haben. (R. 4514). Es ist schwer verstaendlich, wie BLOME einerseits behaupten kann, dass er RASCHER in seinen Arbeiten am Polygal unterstuetzte und daran interessiert war, doch andererseits eine von RASCHER diesbezuglich geschriebene wissenschaftliche Schrift nicht gelesen habe. BLOME's Aussage erklart sich natuerlich dadurch, dass die Habilitierungstheze nicht Polygal sondern Kaelte-Experimente behandelte. (Nr. 240, Nr. 230, supra).

Nachdem er von RASCHER's Kaelte-Experimenten gehoert hatte, war BLOME genuegend an dieser Angelegenheit interessiert, um RASCHER im Oktober 1943 einen Forschungsauftrag zu erteilen. Auf der gleichen Karteikarte BLOME's als Mitglied des Reichsforschungsamtes, die den Forschungsauftrag an HIRT aufweist, erscheint der Auftrag an RASCHER auf Wiedererwaermung nach allgemeiner Erfrierung des menschlichen Koerpers, Heilbehandlung nach Teilerfrierung und Anpassung des menschlichen Koerpers an niedrige Temperaturen. Eine so detaillierte Aufgabe haette niemals von jemand anders als einem Manne, der vollkommen mit RASCHER's Arbeiten vertraut war, erteilt werden koennen. Die Eintragsnummer 1879/15 beweist, dass BLOME diesen Auftrag erteilte (siehe Lost Gas Experimente, supra). Ausserdem besagt ein Vermerk auf der Karte, dass die auf der Karteikarte eingetragenen Auftraege von BLOME bearbeitet wurden (Nr. 690, Anklage Beweisstueck 120, R. 371; Nr 656, Anklage-

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BLOME

Beweisstück 120, R. 371; Nr. 656, Anklage-Beweisstück 247, R. 966). Hier sagte BLOME wiederum aus, dass es sich um einen bedauerlichen Irrtum handle, dass SAUERBRUCH in Wirklichkeit RASCHER unterstützt habe. Das Beweismaterial zeigt aber, dass es BLOME und nicht SAUERBRUCH war, der mit RASCHER zusammenarbeitete und von seinen früheren Experimenten wusste. BLOME gab zu, dass RASCHER ihn über die Kälteexperimente unterrichtet habe, und dass ein Todesfall vorgekommen sei. (R. 4508). Seine Zusammenarbeit mit RASCHER war von HIMMLER befohlen worden und war so eng, dass er beabsichtigte, ihn in seinem Institut in Nesselstedt zu verwenden.

Während BLOME jede Verbindung mit den Kälte-Experimenten abstritt, sagte er weiterhin aus, dass nach Oktober 1943 keine Kälteexperimente stattgefunden hätten. (R. 4541). Das SIEVERSche Tagebuch für das letzte Halbjahr 1943 liegt nicht vor, um eine endgültige Antwort auf diese Frage zu geben. Aus dem Tagebuch für 1944 ist aber ganz klar ersichtlich, dass sicherlich Vorbereitungen dafür getroffen wurden. Die Eintragungen für den 6. und 21. Januar beweisen dies. (3846-PS, Anklage-Beweisstück 123, R. 382; siehe auch die Eintragung für den 22. März.) Wie dem auch sei, BLOME trat in Erscheinung als die Trockenkälte-Experimente in der ersten Hälfte des Jahres 1943 noch im Gange waren, auf jeden Fall stempeln ihn seine Arbeiten als am Tatbestand mitschuldig. Ausserdem stand er mit Plänen und Unternehmungen in Verbindung, die sich mit der Durchführung von Kälteexperimenten befassten, gab seine Zustimmung dazu und war ein Mitglied einer Gruppe oder Kooperschaft, die damit in Verbindung stand.

5. Malaria-Experimente. (Anklageschrift, Absatz 6, (C)).

Im Zusammenhang mit dem Anklagepunkt betreffend die Verantwortlichkeit für die Malaria-Experimente, die im einzelnen in der Zusammenfassung der Anklage gegen den Angeklagten ROSE geschildert worden, stützt sich die Anklage hauptsächlich auf die Stellung des Angeklagten BLOME.

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BLOME

Die Malaria-Experimente wurden in grossen Umfange von 1942 bis zum Ende des Krieges von Professor Klaus SCHILLING im Konzentrationslager Dachau vorgenommen. SCHILLING war ein Zivilist, und infolgedessen traf der Reichsgesundheitsfuhrer CONTI die noetigen Anordnungen fuer ihn und ermoeeglichte es, dass er die Versuche in Dachau ausfuehren konnte. (NO-856, Anklagebeweisstueck 125, R.386). Alle Aerzte, die nicht in der Wehrmacht dienten, oder in der SS waren, waren der Reichsnerztammer unterstellt, in der BLOME CONTIS Stellvertreter war(supra). Es ist unmoeeglich, das BLOME, der nach seiner eigenen Aussage "sich vollkommen bewusst war, dass Versuche an Menschen in Konzentrationslagern ausgefuehrt wurden", (NO-471, Anklagebeweisstueck 238, R.952) nichts von Versuchen wusste, die mehr als drei Jahre in Gang waren, fuer welche ungefaehr 1.200 Insassen zu Versuchszwecken benutzt wurden und die von seinen direkten Vorgesetzten gefoerdert und von einem Mitalied einer Organisation ausgefuehrt wurden, deren Geschaeftsfuehrer und zweithoechste Instanz er war.

Ueberdies stand BLOME mit Dr. PLOETNER in Verbindung (s.Polygal-Versuche, Supra). PLOETNER war ein Assistent von SCHILLING und fuehrte mit ihm Malariaversuche aus (3546-PS, supra, Eintragungen von 30.Januar, 22.Februar, 31.Mai, 1.Juni und 24.August 1944). BLOME war mehrmals in dem Konzentrationslager Dachau, wo die Versuche ausgefuehrt wurden (Blome R 4525, NO-473, Anklagebeweisstueck 237, R.952). Er eroerterte Versuche an Menschen mit dem Angeklagten SIEVERS, der auch selbst sehr oft in Dachau war (Blome R.4500). Angesichts dieser Tatsachen kann kein Zweifel darueber herrschen, dass BLOME ueber SCHILLINGS Versuche und seiner Zusammenarbeit mit PLOETNER und SIEVERS unterrichtet war.

BLOME wusste auch sehr wohl von anderen Versuchen, die in

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BLOME

Konzentrationslagern ausgeführt wurden. In seiner eidesstattlichen Erklärung gab er zu, dass er genau darüber unterrichtet war, dass in Konzentrationslagern Versuche an Menschen ausgeführt wurden. (NO-471, Anklagebeweisstück 238, R.952). HIMMLER selbst erzählte ihm von den Versuchen, Typhus-Impfstoffe in Konzentrationslager Buchenwald zu prüfen. RASCHER setzte BLOME über seine Höhlenversuche in Kenntnis. (Blome R.4508). SIEVERS erörterte Fragen mit ihm in bezug auf verschiedene Spezialforschungen und Versuche. (3546-PS, supra, Eintragung vom 11. Oktober 1944).

III. Zusammenfassung.

BLOME war der stellvertretende Reichsgesundheitsführer, der stellvertretende Leiter der Reichsärztekammer und des National-Sozialistischen Ärztebundes. Er war ein enger Mitarbeiter CONTIG, der die Leitung des zivilen Gesundheitswesens unmittelbar unter sich hatte. Infolge dieser Stellung übte BLOME eine beträchtliche Macht aus und hatte einen grossen Einfluss. Er wusste, dass Insassen von Konzentrationslagern systematisch für verbrecherische medizinische Versuche benutzt wurden.

Als verantwortlicher Leiter der bakteriologischen Kriegsführung riet BLOME persönlich zu verbrecherischen Versuchen auf jenem Gebiet und führte sie auch persönlich aus. Im selben Zusammenhang machte er Giftversuche an Menschen und berichtete HIMMLER darüber.

BLOME wusste genau von den mörderischen Kälteversuchen, die von RASCHER gemacht wurden, unterstützte seine Bemühungen, als Universitäts-Dozent für diese Materie zugelassen zu werden und erteilte RASCHER als Mitglied des Reichsforschungsrates persönlich einen Forschungsauftrag für weitere Kälteversuche. BLOME machte zusammen mit RASCHER Polygal-Versuche, in deren Verlauf Insassen angeschossen und getötet wurden. Auch zur Durchführung dieser Versuche erteilte er RASCHER einen Forschungsauftrag.

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BLOME

BLOME hatte Kenntnis von HIRT's Versuchen mit Gas in Natzweiler und foerderte seine Arbeit, indem er ihm einen Auftrag des Reichsforschungsausschusses erteilte.

Als stellvertretender Reichsgesundheitsfuhrer arbeitete BLOME zusammen mit dem Moerder GREISER, dem Gauleiter des Warthegaus, der unter anderem an der Ausrottung der Juden in jenem Teil von Polen teilnahm. BLOME, zusammen mit GREISER, unterstuetzte den Plan, Tausende von tuberkuloesen Polen auszurotten, die als eine Gesundheitsgefahr fuer die deutschen Siedler betrachtet wurden. Gemass diesem Plan wurden viele polnische Staatsangehoerige ermordet, und andere wurden in abgesonderte Lager gebracht, wo sie keinerlei aertzliche Hilfe erhielten und sterben mussten. Als prominentes Mitglied des verbrecherischen Nazi-Fuehrerkorps, war BLOME Mitglied einer Gruppe, die mit der Ausfuhrung des Euthanasie-Programms in Verbindung stand. Er wusste, dass dieses Programm ungesetzlich war, unterstuetzte es aber ^{tatkraeftig} trotzdem.

Die Anklage legt dar, dass das Beweismaterial bestaetigt, dass BLOME in Verbindung stand mit Plaenen und Unternehmungen, die sich mit medizinischen Versuchen an Menschen ohne deren Einwilligung, der Ausrottung tuberkuloeser Polen unter der Durchfuhrung des Euthanasie-Programms befassen, dass er hierin Hauptschuldiger und Helfershelfer war, diese Handlungen befehl, ihnen Vorschub leistete, ihnen zustimmte und Mitglied einer Gruppe oder Koerperschaft war, die mit ihnen in Verbindung stand und dass im Verlauf dieser Handlungen Morde, Brutaltaten, Grausamkeiten, Folterungen, Grauelthaten und andere unmenschliche Taten begangen wurden und dass seine Schuld unter den Punkten I, II und III der Anklageschrift festgestellt ist.

CERTIFICATE OF TRANSLATION

June 26, 1947

I, Joseph M. Franckensteil, A-442842, hereby certify that I am thoroughly conversant with the English and German languages and that the above is a true and correct translation of the Closing Brief Kurt BLOME.

Joseph M. Franckenstein
No. A-442842

MILITÄRGERICHTSHOF Nr. I

FALL Nr. 1

ZUSAMMENFASSENDER SCHRIFTSATZ
FÜR DIE VEREINIGTEN STAATEN VON AMERIKA
GEGEN
VIKTOR BRACK

Nuernberg,
16. Juni 1947

J. M. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Kether Jane Johnson

Fuer:

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War Crimes



EINFUEHRUNG

Unter Punkt I der Anklageschrift wird der Angeklagte Viktor Brack im wesentlichen beschuldigt, dass er sich mit anderen Personen im Verfolge eines gemeinsamen Vorhabens zu einer Verschwörung und Uebereinkunft zusammengefunden hat, um medizinische Experimente an lebenden Menschen ohne deren Zustimmung vorzunehmen; unter Punkt II und III (Kriegsverbrechen und Verbrechen gegen die Menschlichkeit), dass er Haupttaeter, Teilnehmer, Anstifter, Vorschubleistender gewesen ist, seine Zustimmung gegeben und mit Plaenen und Unternehmen in Verbindung gestanden hat, die die Durchfuehrung medizinischer Experimente an lebenden Menschen ohne Zustimmung der Betroffenen zum Gegenstand hatten, und das sogenannte Euthanasieprogramm durchgefuehrt zu haben; unter Anklagepunkt IV nach dem 1. September 1939 ein Mitglied der SS gewesen zu sein, einer Organisation, die vom Internationalen Militaergerichtshof als verbrecherisch erklart worden ist.

Die als Kriegsverbrechen und Verbrechen gegen die Menschlichkeit anerkannten Handlungen sind in den Absatzen I (b) und (c) des Artikels Nr. 10 II des Kontrollratsgesetzes/angefuehrt. Die Mitgliedschaft bei einer vom Internationalen Militaergerichtshof als verbrecherisch erklarten Organisation wird in Absatz 1 (d) desselben Artikels als Verbrechen bezeichnet. Die Strafbarkeitsmerkmale sind in Artikel II Absatz 2 des Kontrollratsgesetzes Nr. 10 aufgefuehrt. Dem Angeklagten Brack wird insbesondere zur Last gelegt, sich an den in Ziffer 6 (I) der Anklageschrift aufgefuehrten Sterilisierungsexperimenten und an der Durchfuehrung des in Ziffer 9 aufgefuehrten Euthanasieprogramms beteiligt zu haben.

I. STELLUNG UND VERANTWORTUNG

Der Angeklagte Brack hatte im Dienst der NSDAP und der SS Stellungen mit sehr grosser Machtbefugnis und Verantwortlichkeit. Er war einer der fruehesten Anhaenger Hitlers. Schon im Jahre 1923 trat er einer Artillerieeinheit des SA-Regiments in Muenchen bei. Im Jahre 1929 wurde er Mitglied der NSDAP und der SS und

erhielt den "Totenkopfring", eine SS-Auszeichnung, im Jahre 1934. (NO-820, Ankl. Bew. 34, R. 138). Seine Mitgliedsnummer in der SS war 901, und er gehörte also zu den ältesten Mitgliedern der SS. (Brack, R. 7443). Vor Ausbruch des Krieges war Brack Rang in der SS der eines Standartenführers, und während des Krieges wurde er zum Oberführer befördert. (NO-820, oben).

Im Jahre 1932, noch bevor Hitler zur Macht kam, erhielt er eine leitende Stellung im Büro der NSDAP in München, dem sogenannten Braunen Haus, das damals das Hauptquartier der Partei war. Von 1933 an war er als Bouhlers Adjutant tätig, der zu dieser Zeit Reichsgeschäftsführer der NSDAP war. Als Bouhler 1934 zum Leiter der "Kanzlei des Führers der NSDAP" ernannt wurde, ging Brack mit ihm nach Berlin. Er wurde im Jahre 1936 zum Leiter des Amtes II der Kanzlei des Führers ernannt, mit dem Titel Reichsamtsleiter und später Oberdienstleiter. Im Amt II war er als Bouhlers Stellvertreter tätig und führte alle Sonderaufgaben Bouhlers aus. Als Hitler im Jahre 1939 den Angeklagten Karl Brandt und Bouhler die Durchführung des Euthanasieprogramms übertrug, wurde Brack mit bedeutsamen Verwaltungsaufgaben dieses Programms betraut. (NO-820, oben).

II. STERILISIERUNGSVERSUCHE (Anklageschrift Ziffer 6 (I))

Im Jahre 1941 war es bereits die offizielle Politik des dritten Reiches, die jüdische Bevölkerung Deutschlands und der besetzten Gebiete auszurotten. (Urteil des I.M.T., R. 16920 und folgende). In seiner eidesstattlichen Aussage beschrieb Brack dies als offenes Geheimnis in höheren Parteikreisen. (NO-426, Ankl. Bew. 160, R. 532). Auch gibt er zu,

von Himmler ueber den Beschluss in Kenntnis gesetzt worden zu sein, die Juden auszurotten. (Brack, R. 7508). Im Mordhandwerk geschulte Personen wurden von den Euthanasiestationen nach dem Osten geschickt, um bei dem Programm mitzuhelfen. Das Programm selbst wurde in der Tat teilweise dazu benuetzt, um die Juden auszurotten. (Siehe "Euthanasie" - unten).

Wegen des dringenden Bedarfs an Arbeitern wurde die Sterilisierung von arbeitsfaehigen Juden als Alternative zu ihrer voelligen Vernichtung angesehen. Himmler ersuchte Brack mit einigen der Aerzte, die im Euthanasieprogramm taetig waren, Moeglichkeiten der Sterilisierung zu untersuchen, die die Opfer in Unkenntnis ueber ihr schreckliches Schicksal lassen wuerden. (Brack, R. 7484). Im Maerz 1941 schickte Brack einen von ihm persoenlich unterzeichneten Bericht ueber die Ergebnisse von Roentgenstrahlenkastrierungsversuchen. Aus diesen Versuchen ging hervor, dass eine dauernde Sterilisierung durch Roentgenstrahlen nur durch Dosierungen erzielt werden koennte, die Kastrierung zur Folge haben wuerden. Der Bericht stellte fest, dass Massensterilisierung mit Roentgenstrahlen ohne Schwierigkeiten durchgefuehrt werden koennten und schlug aus Tarnungsgruenden vor, dass die Opfer an einen Schalter gebracht werden sollten, wo sie aufgefordert wuerden, einige Fragen zu beantworten und Formulare auszufuellen, eine Massnahme, die sie zwingen wuerde, 2 bis 3 Minuten am Schalter zu verbleiben. Der hinter dem Schalter sitzende Beamte wuerde einen Roentgenapparat bedienen und die Opfer, ohne dass sie es wuessten, sterilisieren. Brack schaeetzte, dass auf diese Weise 150 bis 200 Personen in einem Tage sterilisiert werden koennten und deshalb mit 20 solchen Einrichtungen 3000 bis 4000 Opfer taeglich sterilisiert werden koennten. Er wies darauf hin, dass die Personen es frueher oder spaeter merken wuerden, dass sie kastriert worden seien. (NO-203, Ankl. Bow. 161, R. 534-5). Am 12. Mai 1941 bestaetigte Himmler den Bericht und schickte an Heydrich

den Leiter der Sicherheitspolizei und des SD, eine Kopie. (NO-204, Ankl. Bew. 162, R. 536).

Der Einfall in Russland begann im Sommer 1941, und Bracks Vorschlag wurde nicht ausgeführt. Am 23. Juni 1942, als Deutschland den Sieg in Haenden zu haben schien, schrieb Brack wiederum an Himmler und schlug die Sterilisierung der arbeitsfähigen Juden vor.

Nach seiner Feststellung, dass er Globocnik fuer seine Ausrottungsaktion gegen die Juden Louté zur Verfügung gestellt habe, wies er darauf hin, dass ungefaehr 2 bis 3 Billionen von den 10 Billionen Juden in Europa arbeitsfähig seien und am Leben gelassen werden sollten. Brack war der Meinung, dies koenne nur geschehen, wenn diese Juden sterilisiert wuerden, so dass sie sich nicht fortpflanzen koennten. Er empfahl die Verwendung von Roentgenstrahlen fuer diesen Zweck, weil das schnell ginge und verhaeltnismaessig billig sei. Buhler hatte sich dazu bereit erklart, die fuer das Programm erforderlichen Aerzte und das noetige Personal zur Verfügung zu stellen, und Brack war bereit, die notwendigen Apparate allerschnellstens zu bestellen. Brack kam davon ab, dass die Opfer ueber ihr Schicksal in Unkenntnis gelassen werden sollten, da er ein solches Vorgehen dann als unwesentlich erachtete. (NO-205, Ankl. Bew. 163, R. 536-7). Diese Meinungsänderung war unzweifelhaft auf die Tatsache zurueckzufuehren, dass Brack 1942 davon ueberzeugt war, Deutschland wuerde den Krieg in der nahen Zukunft gewinnen und man deshalb einer Kritik solcher unmenschlicher und verbrecherischer Massnahmen keine Beachtung zu schenken brauchte. Brack sagte im direkten Verhoer aus, dass er im Jahre 1942 "sicher war, die Wehrmacht["] wuerde den Krieg gewinnen". (R. 7440).

Himmler schrieb Brack am 11. August 1942, dass weitere Experimente zur Feststellung der Wirksamkeit der Sterilisierung durch Roentgenstrahlen an Konzentrationslagerinsassen von Fachaezten, die von Buhler zur Verfügung gestellt wuerden, vorgenommen werden sollten. Um diese Entscheidungen in die Tat umzusetzen, setzte er Pohl, den Chef des M.V.H.A. der SS, der die Konzentrationslager unter sich hatte, und Grawitz, den Reichsarzt SS und Polizei, in Kenntnis. (NO-206,

Ankl. Bew. 164, R. 538). Brack befahl seinem Stellvertreter Blankenburg, sich mit dem Leiter der Konzentrationslager zu diesem Zweck in Verbindung zu setzen. (NO-207, Ankl. Bew. 165, R. 538). Als Folge davon wurden von Dr. Schumann (NO-208, Ankl. Bew. 166, R. 539), der fruher der Leiter einer der Euthanasiestationen war, Versuche im Konzentrationslager Auschwitz angestellt. (Brack, R. 7733). Dass Sterilisierungen durch Roentgenstrahlen tatsaechlich in Auschwitz vorgenommen wurden, ist weiterhin durch die herzerreissende Aussage des jungen polnischen Juden Chaim Balitzky erwiesen, der, nachdem er einer intensiven Roentgenbestrahlung seiner Geschlechtsteile ausgesetzt worden war, operativ kastriert wurde, sodass die Wirkung der Roentgenbestrahlung studiert werden konnte. (R. 541 und folgende). Balitzky entsann sich des Namens Schumann im Zusammenhang mit diesen Versuchen. (Balitzky, R. 543). Wenigstens 100 unfreiwillige Versuchspersonen - Polen, Russen, Franzosen und Kriegsgefangene - wurden fuer diese Versuche verwendet. (Levy, R. 556-7). Nur junge, gut gebaute Insassen in bester Gesundheit wurden fuer diese Versuche ausgesucht. (Levy, R. 556). Die sterilisierten Opfer erlitten koerperliche und seelische Schaaen. Koerperlich litten sie ungeheure Schmerzen infolge von radialer Dermatitis. Abgesehen davon waren sie seelisch in nicht wieder gutzumachender Weise geschaaedigt. (Levy, R. 559). Fast alle Opfer dieser Experimente wurden ausgerottet, da die schweren Roentgenstrahlenverbrennungen sie arbeitsunfaehig machten. (Levy, R. 557; Balitzky, R. 543). Waeren sie am Leben geblieben, so wuerden sich die meisten von ihnen als Folge der Roentgenstrahlenverbrennungen Roentgen-Krebs zugezogen haben. Nach dem Stand der heutigen wissenschaftlichen Forschung ist diese Krankheit unheilbar. (Levy, R. 558).

Brack leugnete die Verantwortlichkeit fuer diese Sterilisierungsversuche ab. Er behauptete, dass antisemitische Gefuehle ihm voellig fern laegen und er dem Programm

der Ausrottung der Juden ablehnend gegenüber gestanden sei, da dies von ihm als unmenschlich und der deutschen Nation unwürdig erachtet wurde. Er sagte, dass er versuchte, die Juden vor ihrem schrecklichen Schicksal zu bewahren. Zusammen mit seinen Mitarbeitern Blankenburg und Hefelmann, die seine Meinung teilten, behauptete er, Pläne für eine anständige Lösung des jüdischen Problems entworfen und weitergeleitet zu haben. Er nahm an, dass nachdem Deutschland den Krieg gewonnen haben würde, sich viele europäische Länder der deutschen Gesetzgebung in Bezug auf die Juden anpassen würden. Die Juden würden also in Zentraleuropa keine Zukunft mehr haben. Er und seine Mitarbeiter schlugen nach seiner Aussage die Umsiedlung und von ungefähr 10 Millionen europäischer/palästinensischer Juden in Madagaskar als einer neuen jüdischen Heimat vor, mit einer jüdischen Regierung unter Bouhler als deutschem Gouverneur. Brack geht sogar so weit zu sagen, er war der Meinung, dieser Plan würde die Unterstützung des Weltjudentums haben. (Brack, R. 7480). Er behauptet, dass als dieser Plan von Hitler verworfen wurde und die Gefahr der Verwirklichung näher rückte, er und seine Mitarbeiter Hitler dadurch zu täuschen versuchten, dass sie ihm unwirksame Sterilisierungsmethoden vorschlugen, um die Juden zu retten. Auf diese Weise wollte er die Ausrottung bis nach dem Ende des Krieges hinausschieben, wenn der Plan der Umsiedlung der Juden nach Madagaskar aufs neue vorgebracht werden könnte.

All dies stellt natürlich keine Verteidigung dar. Die Tatsache steht fest, dass Brack Sterilisierungsversuche ausführen liess, die den Tod und die dauernde Schädigung zahlreicher hilfloser Opfer zur Folge hatten. Aus dem Beweismaterial geht überdies hervor, dass Brack rückhaltslos an der Ausrottung der Juden mitwirkte und sogar zu diesem Zweck Globocnik geübte Mordgesellen zur Verfügung stellte. Dass Brack persönliche Vorbehalte gehabt haben mag, ist ganz unwesentlich. Aber dieses ungeheuerliche Vorbringen von Brack ist völlig falsch. Brack war ein

Anhaenger Hitlers seit 1923 und bekleidete ein hohes Amt in der NSDAP. (Oben). Rassenpolitik und als Folge davon zuegelloser Antisemitismus war eine der Grundlagen des Hitler-Systems und des nat. soz. Regimes. (Urteil des IMT, R. 16917 u. ff.). Aus dem Beweismaterial ging einwandfrei hervor, dass Brack, weit davon entfernt, die Juden vor Ausrottung zu schuetzen, vollkommen unbekuemmert ueber das Schicksal der sieben bis acht Millionen Juden war, die nicht in der Lage waren zu arbeiten, und nur das Leben von zwei bis drei Millionen sterilisierten Juden zum Zweck der Zwangsarbeit retten wollte, bis Deutschland den Sieg errungen haben wuerde. (NO-205, oben, siehe "Euthanasie", unten). Der einzige Schluss, den man aus Bracks Aussage ziehen kann, ist, dass er die Methode seiner Verteidigung von dem Angeklagten Pokorny ausborgte. (Eröffnungserklärung fuer den Angeklagten Pokorny, R. 2283, vergl. Brack, R. 7772).

III. EUTHANASIEPROGRAMM (Anklageschrift, Ziffer 9)

Hinsichtlich der Beschreibung und der verbrecherischen Natur des Euthanasieprogramms wird auf den Schriftsatz der Anklagebehoerde gegen Karl Brandt hingewiesen.

Brack war einer der wichtigsten Maenner bei der Durchfuehrung des Euthanasieprogramms. Als Himmler, in seiner Eigenschaft als Reichsminister des Innern, von Buch, dem hoechsten Parteirichter (NO-002, Ankl. Bew. 392, R. 1678) Klagen ueber die Durchfuehrung des Programms erhielt, schrieb er an Brack direkt, um ihn aufzufordern, gewisse Schwierigkeiten zu bereinigen, die dadurch entstanden waren, dass die Bevoelkerung von Grafeneck herausgefunden hatte, dass in einer Pflegeanstalt in der Umgebung Geisteskranke getoetet und verbrannt wurden. (NO-018, Ankl. Bew. 404, R. 1711; Brack, R. 7482-3). Beschwerden von hohen kirchlichen Waerdentraegern wegen der Tuetung von Geisteskranken wurden ihm zur Erledigung zugeschickt. (616-PS, Ankl. Bew. 403, R. 1711). Er schickte an den Reichsjustizminister Briefe mit seinem persoentlichen Briefkopf bezueglich des

Euthanasieprogramms und erhielt die betreffenden Akten direkt von diesem Minister. (NO-1328, Ankl. Bew. 495, R. 7691-2; NO-842, Ankl. Bew. 405, R. 1712). Wenn Bouhler von Berlin abwesend war, war er als sein Stellvertreter tätig und korrespondierte als solcher mit Freisler, dem Staatssekretär im Reichsjustizministerium, über Euthanasieprobleme. (NO-843, Ankl. Bew. 406, R. 1712).

Der Zeuge Mennecke sagte aus, dass Brack auf einer Tagung den Vorsitz führte, auf der die für die Durchführung des Programms ausgesuchten Ärzte von ihren Pflichten in Kenntnis gesetzt wurden und dass er der Mann war, der ihnen die notwendigen Informationen gab. (Mennecke, R. 1868). Brack war eine der führenden Persönlichkeiten im Euthanasieprogramm. (Mennecke, R. 1874). Der Zeuge Schmidt sagte aus, dass Brack im Jahre 1944 Brandt als Leiter des Programms ersetzte. (Schmidt, R. 1825).

Brack gab im Verlauf seiner Aussage zu, dass er im Euthanasieprogramm seit seinen ersten Anfängen tätig gewesen war. (R. 7551). Er entschloss sich dazu, bei dem Programm mitzuwirken, und zog einige seiner Mitarbeiter ins Vertrauen und ersuchte sie, auch mitzuwirken. (R. 7558). Er nahm an den ersten Tagungen teil, die abgehalten wurden, um das Programm in die Tat umzusetzen. (R. 7565). Er übernahm es, die Organisation des Programms ins Leben zu rufen. (R. 7586). Er hatte das Recht, Weisungen zu erteilen. In vielen Fällen war er als Bouhlers Stellvertreter tätig (R. 7587) und führte auf Tagungen den Vorsitz. (R. 7588). Er hielt auch auf Tagungen über Euthanasie Vorträge, z.B. auf der Tagung der Gauamtsleiter des öffentlichen Gesundheitsdienstes in München (R. 7588) und im Justizministerium in Berlin. (R. 7589). Im Winter 1939/1940 war er zusammen mit den Angeklagten Brandt und Bouhler sowie Conti zugegen, als die ersten Opfer des Programms in einer Gaskammer der Brandenburger Euthanasiestation getötet wurden (R. 7645-6) und reiste im Jahre 1940 bei allen anderen Euthanasiestationen

herum und sah die Tötung von vielen Insassen mit an. (R. 7647).

Bracks eigene Aussage und das von der Anklage vorgelegte Beweismaterial beweisen also, dass er beim Euthanasieprogramm ein Verwaltungsleiter mit Verantwortung war.

Brack gibt seine Beteiligung beim Euthanasieprogramm zu (R. 7555), aber versucht, dem Programm selbst und seiner Beteiligung daran hohe moralische und menschliche Grundsätze zuzuschreiben. Das Euthanasieprogramm bezog sich nur auf unheilbar Geisteskranke. (R. 7543). Er begrüsste Euthanasie, da sie auf dem ethischen Grundsatz des Mitleids beruhte. (R. 7532). Nur seine Hilfsbereitschaft gegenüber jedermann, und besonders gegenüber den Kranken, liess ihn die Euthanasie befürworten. (R. 7534). Wegen derselben hohen humanitären Grundsätze begrüsste er auch Euthanasie für missgestaltete und unterentwickelte Kinder. (R. 7554). Im Fall der Euthanasie von Kindern war die vorherige Zustimmung der Eltern oder des Vormundes eine absolute Voraussetzung. (R. 7612).

Hinsichtlich der rechtlichen Grundlage des Programms stellt er sich auf den Standpunkt, dass die Befugnis Hitlers, ein Schriftstück zu unterzeichnen, durch welches er alles befahl, was er ausgeführt wünschte, keinerlei Beschränkungen unterworfen war. (R. 7665). Er behauptete, dass Juden und nichtdeutsche Staatsangehörige von dem Programm nicht betroffen wurden, da Hitler die Euthanasie nur deutschen Staatsbürgern zu gewähren wünschte, da sie einen Gnadenakt darstellte. (R. 7602, 7649). Das Euthanasieprogramm wurde angeblich im August 1941 abgebrochen. (R. 4666). Er versuchte, Euthanasie und die "Aktion 14 f 13" auseinander zu halten, die tatsächlich die Ausrottung von Konzentrationslagerinsassen unter dem Euthanasieprogramm darstellte. Brack sagte, er wisse nur, dass es Himmlers Absicht war,

die Konzentrationslagerinsassen, die am schwersten krank waren, auf ihren körperlichen und geistigen Zustand hin untersuchen zu lassen, und er, Brack, glaubte, dies würde im Interesse dieser Insassen geschehen. Da Himmler nicht genügend Vertrauen zu den Fähigkeiten der Konzentrationslagerärzte hatte, ersuchte er Bouhler, solche Ärzte zur Verfügung zu stellen. Bouhler ersuchte Brack, sich mit dem Büro des Euthanasieprogramms in der Tiergartenstrasse 4 in Verbindung zu setzen und um die Zurverfügungstellung von erfahrenen Psychiatern zu diesem Zweck zu bitten. Brack kam diesem Ansuchen nach. (K. 7535).

Brack sagte aus, dass er "nie die Absicht hatte, die Juden auszurotten, sondern das Gegenteil beabsichtigte, die Juden zu beschützen, sie vor einem schrecklichen Schicksal zu bewahren." Er könne sich nicht vorstellen, warum er "ein Vorkämpfer der Judenauströpfung hätte werden sollen." (K. 7531).

Bracks Aussage wird durch seine eigene eidesstattliche Erklärung völlig widerlegt (NO-426, Ankl. Bew. 160, K. 525) und durch die von ihm entworfene Tabelle (NO-253, Ankl. Bew. 331, K. 1532); und jetzt will er den Gerichtshof glauben machen, dass er sich irgendwie bei der Unterzeichnung geirrt habe.

Bracks Aussage stellt keine Verteidigung gegenüber den gegen ihn erhobenen Beschuldigungen dar. Das unwiderlegte Beweismaterial zeigt, dass Personen ohne gehörige Untersuchung nach hunderttausenden der Euthanasie unterworfen wurden; dass die Zustimmung des Patienten oder die seiner Verwandten vor der Durchführung nicht eingeholt wurde; dass der Zweck des Programms die Ausmerzung sogenannter nutzloser Leben war von Personen, die als Belastung des Staates betrachtet wurden; dass eine beträchtliche Anzahl nichtdeutscher Staatsangehöriger getötet wurde; dass gesunde Juden einbezogen wurden; dass Konzentrationslagerinsassen von Euthanasieärzten nach kurzer oder gar keiner Untersuchung ausgewählt wurden. Brack legt keinen Beweis dafür vor, da diese Tatsachen zu widerlegen.

Er sagt bloss, dass das Programm Auslaender und Juden angeblich ausschliessen sollte; dass er von hohen moralischen Prinzipien geleitet war; dass die Untersuchungen gruendlich sein sollten, usw.. Der wesentliche Inhalt seiner Zeugenaussage ist, dass er das Programm, in dessen Durchfuhrung er eine wichtige Stellung bekleidete, nicht zu bewaeltigen vermochte. Bracks angebliche Moralitaet ist voellig unwesentlich. Es ist anzunehmen, dass sogar den elenden Henkersknechten, in den Vernichtungslagern von Auschwitz und Treblinka gesagt, und auch von ihnen geglaubt wurde, dass sie durch das Tooten der Juden dem Vaterland etwas Gutes taten. Aber dieser schwache Rechtfertigungsgrund ist Angesichts des Beweismaterials nicht glaubwuerdig.

A. Moralische und humanitaere Rechtfertigung.

In dem Schriftsatz gegen Karl Brandt hat die Anklagebehoerde den ueberwaeltigenden Beweis zusammengefasst, dass die Euthanasie, weit davon entfernt, "ein Gnadenakt" zu sein, eine Massregel war, um "nutzlose Esser" und andere "unerwuenschte" Elemente auszurotten. Brack selbst konnte, als er vom Gericht verhoert wurde, nicht erklaren, warum Veteranen des ersten Weltkrieges (1914-18) von diesem "Gnadenakt" ausgenommen waren. (Brack, R. 7650, 7664). Er konnte auch umgekehrt nicht erklaren, warum diese Gnade sich auf geisteskranke Verbrecher erstreckte, unabhaengig davon, wie lange sie in einem Irrenhaus gewesen waren. (NO-825, Ankl. Bew. 358, R. 1577; Brack, R. 1718-9).

Brack selbst tadelte Mennecke, der Sachverstaendiger im Euthanasieprogramm war, weil seine Gutachten viel zu milde waren und er die Euthanasie nicht so oft, wie er es wollte, empfahl. (Mennecke, R. 1907, 1881). Die sogenannten "Beobachtungsstationen", wo die Patienten nach Bracks Aussage mehrere Wochen lang von sachverstaendigen Aerzten untersucht wurden, waren nichts als Sammelpunkte fuer die Opfer. (Mennecke, R. 1878-9; Schmidt, R. 1822).

Brack gab zu, dass das Werk von Binding und Hoche als das Standardwerk ueber die Euthanasie betrachtet wird. (R. 7633). Dieses Werk laesst keinen Zweifel, dass der Lebenswille selbst derer, die ausserst schwer krank sind, am haertesten leiden und von geringstem Nutzen sind, voll und ganz zu respektieren sei, und dass jede Befugnis zur Vernichtung von Menschenleben in Faellen, wo der Lebenswille gebrochen worden muss, ausgeschlossen sein sollte. (NO-2893, Ankl. Bew. 496, R. 7700). Brack selbst gab zu, dass die Euthanasie in Faellen, wo der Patient den Willen zum Leben noch habe, unzulessig ist. (R. 7701). Der Zeuge Schmidt bezeugte, dass die Opfer, die offensichtlich ihr Schicksal kannten oder vermuteten, gezwungen werden mussten, in die Omnibusse, die sie nach den Vernichtungsstationen brachten, zu steigen. (Schmidt, R. 1861, 1856). Dieses Beweismaterial wird durch dokumentarische Beweise bestaetigt. (D-906, Ankl. Bew. 376, R. 1619-21). Wenn auch viele von diesen Opfern geisteskrank gewesen sein moegen, so fehlte ihnen sicherlich nicht der Lebenswille. Ausserdem gab Brack, als er vom Gericht befragt wurde, selbst zu, dass Bouhler angeordnet habe, die Vorkehrungen fuer die Toetung muessten so getroffen werden, dass die Patienten sich nicht darueber im klaren waren, was mit ihnen geschah. (Brack, R. 7660). Die Gaskammern, wo die Opfer vernichtet wurden, glichen Duschräumen. (Brack, R. 7659). Den Patienten wurde vorge-macht, sie sollten eine Dusche nehmen, und muessten sich deshalb ausziehen. (Brack, R. 7644, 7660). Solche Vorsichtsmaassregeln wuerden gewiss nicht noetig gewesen sein, haetten die Patienten das "Privileg eines Gnadentodes" gewuenscht.

Bei Kindertoetungen fand keine vorhergehende Beratung mit Eltern und Verwandten statt. (3864-PS, Ankl. Bew. 367, R. 1593). Pfannmueller, Bracks eigener Entlastungszeuge, bezeugte, dass er, nachdem er von den Obergutachtern die Ermächtigung, das Kind zu toeten erhalten hatte, die Verwandten einlud, das Kind zu besuchen

weil es krank sei. Er teilte den Eltern oder Vormuendern jedoch nie mit, dass er das Kind toeten werde, weil dies ein Staatsgeheimnis war. (Pfannmueller, R. 4394). Aus den von dem Angeklagten Brack vorgelegten Dokumenten geht klar hervor, dass die Eltern ueber den Zweck der Verlegung der Kinder in die Anstalten, wo sie getoetet werden sollten, getauscht wurden. Es war die Aufgabe der beamteten Aerzte, die Eltern zu bewegen, ihre Kinder in solche Anstalten zu schicken, indem sie ihnen sagten, dass durch Behandlung ein gewisser Erfolg erzielt werden koenne. (Brack Dok. 52, Brack Bew. 43, R. 7678; vgl. Brack, R. 7717). Den Eltern wurde gesagt, dass das Kind in solchen Anstalten die beste Pflege erhalten werde, und dass alles moegliche, was die moderne Therapie bietet, angewandt werden wuerde. (Brack, Dok. 51, Brack Bew. 42, R. 7678). Aus diesen Dokumenten geht klar hervor, dass bei Kindertoetungen die Eltern nicht nur nicht um ihre Einwilligung gefragt, sondern getauscht wurden, um die Verlegung in eine Euthanasie-Anstalt zu ermöglichen.

B. Aktion 14 f 13

Brack versuchte, das Euthanasieprogramm von der Aktion 14 f 13 zu trennen. Er bezeugte, dass die Persoenlichkeiten Heydes, Nitsches, Steinmeyers und Faltlhausers die Gewaehr dafuer boten, dass die Untersuchungen der Konzentrationslagerhaeftlinge, die angeblich von Himmler befohlen worden waren, in gehoeriger weise und zum Vorteil dieser Haeftlinge ausgefuehrt werden wuerden. Er hielt es fuer voellig unmoeglich, dass "Heyde mit seinem anstaendigen Wesen" an einer Aktion wie 14 f 13 teilgenommen haben wuerde. (Brack, R. 7538-9). Im besten Falle ist dies natuerlich eine scheinheilige Annahme. Die Beweiserhebung hat ergeben, dass alle diese von Brack genannten Aerzte an der Auswahl von Konzentrationslagerhaeftlingen

zwecks Austilgung mitwirkten. (Mennecke, R. 1882). Dr. Mennecke empfing seine Befehle, solche Auswahlen zu treffen, von Brack, Heyde und Nitsche schon im Jahre 1940. (Mennecke, R. 1882, R. 1909). Er wurde von diesen drei Personen instruiert, dass die Juden in den Konzentrationslagern nicht untersucht zu werden brauchten und dass es genuege, wenn die Verhaftungsgruende in den ueblichen Euthanasie-Fragebogen aufgefuehrt wuerden. (Mennecke, R. 1891-3). Diese Juden waren groesstenteils koerperlich und geistig gesund. (Mennecke, R. 1893, 1931). Mennecke besprach seine Arbeit in den Konzentrationslagern mit Brack, Heyde und Nitsche. (Mennecke, R. 1934). Er hatte niemals etwas mit Linden zu tun. (Mennecke, R. 1931). Menneckes Zeugenaussage wird durch seine Briefe an seine Frau bestaetigt. (NO-907, Ankl. Bew.).

Die eidesstattliche Erklaerung des Dr. Luthig, des Lagerarztes des Dachauer Konzentrationslagers beweist, dass Heyde als Fuehrer einer Kommission von vier Psychiatern im Herbst des Jahres 1941 das Dachauer Konzentrationslager besuchte. Diese Aerztekommision waelte arbeitsunfaehige Gefangene zur Toetung durch Gas aus. (NO-2799, Ankl. Bew. 497, R. 7710). Die eidesstattliche Erklaerung von Dr. Gorgass enthuehlt, dass er und Dr. Schumann, die beide im Euthanasieprogramm taetig waren, im Juni 1941 das Konzentrationslager Buchenwald besuchten. Gorgass erklaert ausdruuecklich, dass es der Zweck dieser Reise war, sich mit der Auswahl von Konzentrationslagerhaeftlingen fuer die Euthanasie vertraut zu machen. Der Befehl fuer diesen Besuch wurde Gorgass durch den Angeklagten Brack uebermittelt. (NO-3010, Ankl. Bew. 503, R. 7734).

Wenn die Zeugenaussagen Bracks und Brandts bezueglichen der Anzahl der Aerzte, die im Euthanasieprogramm taetig waren, richtig ist, so ergibt sich aus den Akten mit Klarheit, dass alle bei diesem Programm taetigen Aerzte an der Aktion 14 f 13 mitwirkten. Brandt schaeetzte die Zahl der mit der Durchfuehrung des Euthanasieprogramms beauftragten Aerzte auf 10 bis 15, (Brandt, R. 2478), Brack auf 12 bis 15. (Brack, R. 7573). Mennecke bezeugte, dass etwa 15 Aerzte vom Euthanasieprogramm beauftragt waren, die "Untersuchungen" in den Konzentrationslagern durchzufuehren. (Mennecke, R. 1891).

Brack konnte nicht erklaren, wieso es kam, dass die in der Aktion 14 f 13 ausgewahlten Konzentrationslagerhaftlinge in den Euthanasie-stationen getoetet wurden. (Brack, R. 7541).

Angesichts dieses Beweismaterials und des Beweismaterials ueber Aktion 14 f 13, wie es in dem Schriftsatz der Anklagebehoerde gegen Karl Brandt zusammengefasst ist, ist Bracks Behauptung, dass er von dem Zu-sammenhang zwischen dem Euthanasieprogramm und der Aktion 14 f 13 nichts wusste und dass er an der letzteren nie teilnahm, offensichtlich unwahr.

Obzwar es nicht von besonderer Bedeutung ist, besteht jedoch mehr als ausreichender Beweis dafuer, dass das Euthanasieprogramm nicht im August 1941 aufhoerte und dass Brack seine Taetigkeit im Rahmen dieses Programms fortsetzte. Der Zeuge Schmidt erklarte, dass Brack sogar noch nach dem Jahre 1942 am Programm taetig gewesen sei (R. 1858) und dass Brack im Jahre 1944 die Leitung des Euthanasieprogramms von Brandt uebernahm. (R. 1825). Der Zeuge Mennecke erklarte, dass er ueber das Programm betreffende Ange-legenheiten noch im Juni 1942 mit Brack korrespondierte. (R. 1897). Dieses Beweismaterial wird durch andere Beweise bestaetigt. (NO-907, Ankl. Bew. 412, R. 1752). Mennecke erhielt bis zur Zeit, als er das Programm im Dezem-ber 1942 verliess, die Photokopien von Gutachten und fuehrte solche Gutachten aus. (Mennecke, R. 1898). Die Reichsvereinigung, die Stiftung und die Trans-portgesellschaft setzten ihre Arbeiten noch nach dem August 1941 fort, und es trat kein Wechsel in dieser Beziehung ein, als Mennecke Ende 1942 nicht mehr am Programm taetig war. (Mennecke, R. 1902). Auch die Leitung des Programms blieb in denselben Haenden. (Mennecke, dortselbst). Blankenburg nennt sich in einem Brief an Himmler vom 14. August 1942 Bracks staendigen Vertreter aber keineswegs seinen Nachfolger. (NO-207, Ankl. Bew. 165, R. 538). weiterer dokumentarischer Beweis

hat ergeben, dass noch im Juli 1944 Zwangsarbeiter polnischer und russischer Nationalitaet der Euthanasie unterworfen wurden. (NO-1116, Ankl. Bew. 415, R. 1781).

C. Nichtdeutsche Staatsangehoerige und Juden

Trotz des reichlichen Beweises, der von der Anklagebehoerde dafuer beigebracht wurde, dass nichtdeutsche Staatsangehoerige und Juden -- ganz abgesehen von der Aktion 14 f 13 (siehe Schriftsatz der Anklagebehoerde gegen Karl Brandt) -- unter den Opfern des Euthanasieprogramms waren, moechte Brack den Gerichtshof glauben machen, dass Auslaender und Juden in das Programm nicht miteinbezogen waren. Dr. jur. Hugo Suchomel, nach dem Minister der hoechste Beamte im oesterreichischen Bundesjustizministerium, sagt in seiner eidesstattlichen Erklaerung, dass, als Brack als Vertreter des Angeklagten Brandt im Jahre 1942 im Justizministerium ueber die Euthanasie einen Vortrag hielt, er die Kriegsveteranen und Leute, die infolge von Luftangriffen geisteskrank geworden waren, als die Personengruppen bezeichnete, die vom Programm ausgenommen waren. Auslaender und Juden waren nicht unter den Personengruppen erwahnt, die ausgenommen waren. (NO-2253, ankl. Bew. , R.). Brack gab zu, dass er den Vortrag gehalten habe. (R. 7589).

Dr. Engert erklart in seiner eidesstattlichen Erklaerung, die von der Verteidigung vorgelegt wurde: "Soweit ich mich erinnern kann, waren gewisse Ausnahmen fuer die Ausfuehrung der Euthanasie festgesetzt; z.B. Personen, die an Gehirnwunden litten, die sie waehrend des ersten Weltkrieges erhalten hatten, und ich denke, Auslaender waren auch ausgenommen." (Brack, Dok. 37, Brack, ankl. Bew. 37, R. 7591). (Unterstreichungen eingefuegt). Er kann sich offensichtlich nicht erinnern, dass Auslaender ausgeschlossen sein sollten, und erwahnt die Juden ueberhaupt nicht. Die eidesstattliche Erklaerung ist hinsichtlich dieses Punktes ohne Beweiskraft. Die gegenseitig sich stuetzenden Behauptungen der an den Verbrechen Beteiligten koennen in keiner Weise die Tatsache widerlegen, die durch Dokumente und durch Aussagen von Zeugen erwiesen ist, die

die Auswahl tatsaechlich vornahmen, naemlich, dass Polen, Russen, Tschechen und andere nichtdeutsche Staatsangehoerige in den Euthanasiestationen getoetet wurden.

Brack bestritt im Kreuzverhoer, dass er sich je mit der Verschiebung polnischer geistesgestoerter Patienten befasst habe. Er bestritt, dass er je Vorkehrungen fuer solche Transporte oder fuer Geldmittel fuer solche Transporte getroffen habe. (Brack, R. 7720). Die ihm im Laufe des Kreuzverhoers vorgelegten Dokumente beweisen zweifelsfrei, dass im Herbst des Jahres 1940 Geldmittel fuer den Abtransport von 1558 Insassen von Irrenanstalten in Ostpreussen und von 250 - 300 geisteskranken Polen von Brack zur Verfuegung gestellt wurden. Da diese Transporte von einem Sonderkommando des beruechtigten SD ausgefuehrt wurden, besteht kein Zweifel daran, dass Menschen getoetet wurden. (NO-2909, Ankl. Bew. 500, R. 7721; NO-2911, Ankl. Bew. 501, R. 7722).

Brack behauptete, dass die Fragebogen, die unabhaengig von der Laenge ihres Aufenthalts in einer Irrenanstalt ueber alle nichtdeutsche Staatsangehoerige ausgefuellt werden mussten, nur als Tarnung dienten. Angesichts der Fuelle des gegenteiligen Beweises kann seine Aussage jedoch nicht als glaubwuerdig angesehen werden. Er erklaerte ferner, dass die Transporte von Juden, die am 20. September 1940 von der Irrenanstalt Eglfing-Haar abgingen, nicht nach Lublin in Polen sondern nach Chelm gingen. (Brack, R. 7621). Es ist nicht nur durch den Zeugen der Verteidigung, Pfannmueller, (R. 7376) sondern auch durch einen Brief eines Verwandten eines juedischen Opfers, das dort getoetet wurde, erwiesen, dass mindestens einer der Transporte von Juden von Eglfing-Haar nach Lublin ging. (NO-3354, Ankl. Bew. , R.). Dass die Juden von dem Programm nicht ausgenommen waren, wird ferner durch die erste vom 18. Januar 1940 datierte Transportliste der Irrenanstalt Eglfing-Haar erwiesen, die an

erster Stelle einen juedischen Insassen anfuehrt. (NO-3356, Ankl. Bew. , R.). Diese Transportliste traegt den Namen Vorbergs, des Transportleiters der Transportgesellschaft, eines der Mitarbeiter Bracks am Programm. (Brack, R. 7563-4).

D. Legalitaet

In bezug auf die Ungesetzlichkeit des Euthanasieprogramms wird auf den Schriftsatz der Anklagebehoerde gegen den angeklagten Karl Brandt verwiesen.

Dass der Brief Hitlers an Brandt und Bouhler (630-PS, Ankl. Bew. 330, R. 1516) im nationalsozialistischen Deutschland nicht als genuegende Rechtsgrundlage betrachtet wurde, wird nicht nur durch die Zeugenaussage des Entlastungszeugen Lammers (R. 2672, 2679) bewiesen, sondern auch durch den vom 24. Juli 1940 datierten Brief des Reichsjustizministers Guertner, in dem er Lammers mitteilte, dass der Fuehrer sich geweigert habe, ein Gesetz zu erlassen, und dass deshalb die geheime Ausrottung geisteskranker Personen sofort aufhoeren muesse. (NO-832, Ankl. Bew. 393, R. 1679). Am 27. Juli 1940 wurde eine Abschrift dieses Briefes an Bouhler geschickt. (NO-833, Ankl. Bew. 394, R. 1679-80). Bestimmt hat Brack von diesem Brief Kenntnis erlangt, da es eine der ihm von Bouhler anvertrauten Aufgaben war, die Beschwerden der verschiedenen Rechtsstellen zu bearbeiten. Brack bestritt in dem Kreuzverhoer eine solche Taetigkeit, aber die ihm vorgelegten Dokumente beweisen das klare Gegenteil. (NO-1328, Ankl. Bew. 495, R. 7691-2). Bracks Taetigkeit in dieser Beziehung wird auch durch weiteres Beweismaterial in den Akten bestaetigt. (NO-842, Ankl. Bew. 405, R. 1712; NO-843, Ankl. Bew. 406, R. 1712). Er hielt im Justizministerium einen Vortrag ueber die Euthanasie und tauschte die beim Vortrag anwesenden Personen ueber den Umfang des Programmes. Aus den Bemerkungen Bracks gewann man den Eindruck, dass nur eine sehr beschraenkte Anzahl von Personen, hoechstens mehrere Hundert in ganz Deutschland, Oesterreich und im Protektorat Boehmen und Maehren, unter die Euthanasie fallen wuerden. Die Auffassung, die hervorgerufen wurde, war, dass nur sehr gefaehrliche Patienten und Tobsuechtige, die sich selbst verletzen koennten, unter das Programm fallen wuerden. (NO-2253, siehe oben).

Dies geschah offensichtlich, um die Bedenken der Anwesenden zu beschwichtigen. Als Brack auf dem Zeugenstand befragt wurde, ob er während des Vortrags annäherungsweise die Anzahl der Personen, die unter die Euthanasie fallen wurden, angab, konnte oder wollte er keine Antwort geben. Im Gegensatz zu dem während der Konferenz im Justizministerium hervorgerufenen Eindruck geben die angeklagten Brack und Brandt zu, dass in Deutschland und Oesterreich allein ungefähr 50 bis 60 tausend Leute unter dem Euthanasieprogramm getötet wurden. (Brandt, R. 2465; Brack, R. 7610). Selbst Bracks eigene Dokumente enthüllen, dass er die Rechtsstellen über die rechtliche Lage in bezug auf das Euthanasieprogramm falsch informierte. Der Ministerialdirektor im Reichsjustizministerium, Karl Engert, erklärt in seiner eidesstattlichen Erklärung, die dem Verteidiger Bracks zufolge "von grossen Interesse ist, weil sie die Meinung der einflussreichen Juristen in dieser Frage zeigt": "Bracks Erklärungen beruhigten mich, weil ihnen zufolge, bestimmt anzunehmen war, dass ein Reichsgesetz in der üblichen Form, d.h. durch Veröffentlichung im Reichsgesetzblatt, erlassen werden würde. Ich sah keinen Grund dafür, warum sich irgendwelche Schwierigkeiten ergeben sollten." (Dok. Brack 37, Brack Bew. 37, R. 7591-2). Es eruebrigt sich zu sagen, dass Brack nichts davon erwähnte, dass Hitler sich geweigert habe, ein solches Gesetz bis nach dem Krieg zu erlassen. (Siehe oben).

Dass Brack sich der Tatsache wohl bewusst war, dass das Euthanasieprogramm verbrecherisch war, wird durch seinen Versuch bewiesen, vor der Besetzung Deutschlands durch die Alliierten Beweismaterial zu zerstören. Die eidesstattliche Erklärung Claussens beweist, dass er das folgende Fernschreiben an den Kommandanten des Mauthäusener Konzentrationslagers schickte:

BRACK

"AN DAS KONZENTRATIONSLAGER LAUTHAUSEN
STANDARTENFUEHRER ZIEREIS

HARTHEIM MUSS SOFORT ZERSTOERT WERDEN.

AUSFUEHRUNG MUSS GEMELDET WERDEN. AUF BEFEHL DES FUEHRERS.

OBERFUEHRER BRACK."

(NO-2429, Ankl. Bsm. 498, R. 7714). Brack gab zu, dass Hartheim eine
Euthanasiestation war, wo die Opfer des Euthanasieprogramms getoetet wurden.

(Brack, R. 7714).

E. Allgemeine Ausrottung der Juden

Brack bestritt jede Teilnahme an der Ausrottung der Juden. (R. 7531). Er sagte, dass Bouhler Globocnik niemals Personal fuer die Ausrottung der Juden zur Verfuegung gestellt haben wuerde. (h. 7514). Bouhler jedoch sagte ihm, dass Globocnik von der Tiergartenstrasse 4, der Dienststelle des Euthanasieprogramms, mehr Personal verlangt habe. Nur nachdem Bouhler sein Ersuchen genehmigt hatte, zog ihn Globocnik ins Vertrauen und enthuelle ihm, dass er von Himmler mit der Mitwirkung an der Ausrottung der Juden beauftragt worden sei. Bouhler war angeblich entsetzt und zog sofort seine Einwilligung, Globocnik zusaezliches Personal zu liefern, zurueck und verlangte sogar, dass das Personal von der Tiergartenstrasse 4, das Globocnik bereits zur Verfuegung gestellt worden war, zurueckgeschickt werden sollte. (h. 7515). Globocnik gab ihm die Versicherung, dass das von der Tiergartenstrasse 4 gestellte Personal nicht zur Ausrottung der Juden verwandt werden wuerde, und Bouhler zog auf Grund dieser Versicherung seinen Einwand zurueck. (R. 7516). Brack bezeugte fernerhin, dass sein Stellvertreter Blankenburg ihn bei seinen Plaenen, die Juden vor ihrem Schicksal zu bewahren, unterstuetzte. (h. 7729).

In scharfem Gegensatz zu dieser Behauptung gab Brack in seiner eigenen eidesstattlichen Erklaerung zu, dass das Euthanasieprogramm und das dabei beschaeftigte Personal von ungefaehr 1941 an bis zur Befreiung der Ostgebiete zur Ausrottung der Juden im Osten verwandt wurde. Zu einem gewissen Zeitpunkt in der zweiten Haelfte des Jahres 1941 wurde ein Teil des Personals, das bis dahin das Euthanasieprogramm in Deutschland durchfuehrte, nach Lublin geschickt und dem SS-Brigadefuehrer Globocnik zur Verfuegung gestellt, um bei der Massenausrottung der Juden zu helfen, die damals schon

in den hoeheren Kreisen der NSDAP allgemein bekannt war. Unter den Aerzten, die an der Ausrottung der Juden teilnahmen, befanden sich Dr. Eberle und Schumann, die beide vorher beim Euthanasieprogramm in Deutschland taetig waren. (NO-426, Ankl. Bew. 160, R. 531). Brack wollte den Gerichtshof glauben machen, dass er in seiner eidesstattlichen Erklaerung irgendwie einen Fehler gemacht haette, aber er musste zugeben, dass er die eidesstattliche Erklaerung freiwillig unterzeichnete und dass er Aenderungen machen durfte und sie auch machte. (Brack, R. 7726). Er erkannte auch die Tabelle nicht an, deren Richtigkeit er beschworen hatte, (NO-253, Ankl. Bew. 331, R. 1518), aber der Entwurf, den er im Gefaengnis in der Abwesenheit irgendwelcher Vertreter der Anklagebehoerde gemacht hatte, bestaetigt in seinen wichtigen Punkten die Richtigkeit dieser Tabelle. (NO-2758, Ankl. Bew. 502, R. 7727). Brack gab zu, dass er diesen Entwurf gezeichnet hatte. (R. 7727). Sein Verteidiger machte seine Absicht kund, durch Vorlage eines Verhoers des Gefaengnisarztes den Beweis zu erbringen, dass Brack sich in einem geistigen und koerperlichen Zustand befand, der ihn unfachig gemacht haette, die Bedeutung dieser Erklaerung zu verstehen. Als der Gerichtshof ihn dazu aufforderte,weigerte er sich, die Verhoere und Kreuzverhoere vorzulegen. (R. 7421-3).

Ein Brief vom 23. Juni 1942 von Brack an Himmler beweist offensichtlich nicht nur, dass die Juden ausgerottet wurden, was Brack auf der Zeugenbank auch tatsaechlich zugab, sondern auch, dass Brack vorsatzlich bei der Durchfuehrung des Programmes mitwirkte. Der Brief lautete folgendermassen:

"Ich habe dem Brigadefuehrer Globocnik auf Anweisung von Reichsfuehrer Bouhler fuer die Durchfuehrung seiner Sonderaufgabe schon vor laengerer Zeit einen Teil meiner Maenner zur Verfuegung gestellt. Auf Grund einer erneuten Bitte von ihm habe ich nun weiteres Personal abgestellt. Bei dieser Gelegenheit vortrat Brigadefuehrer Globocnik die Auffassung, die ganze Judenaktion so schnell wie moeglich durchzufuehren, damit man nicht eines Tages mitten drin steckenbliebe, wenn irgendwelche Schwierigkeiten ein Abstoppen der Aktion notwendig machen. Sie selbst, Reichsfuehrer, haben mir gegenueber seinerzeit schon die Meinung geaussert, dass man

schon aus Gruenden der Tarnung so schnell wie moeglich arbeiten
muesse" (NO-205, Ankl. Bew. 163, R. 536). (Unterstreichungen
eingefuegt).

Brack riet weiterhin an, dass die arbeitsfaehigen Juden sterilisiert
und als Arbeitskraefte verwendet werden sollten. Brack erinnert sich an-
geblich nicht daran, diesen Brief selbst geschrieben zu haben. Trotz der
Tatsache, dass dieses Dokument das Datum: Berlin, den 23. Juni 1942, W 8,
Voss-Strasse 4, welches seine Adresse war, trug, behauptete er, dass er
wahrscheinlich an diesem Tage von Berlin abwesend war, und dass ihm die-
ser Brief zur Unterzeichnung an die Front nachgeschickt wurde. (Brack,
R. 7519). Dies ist unwichtig. Er gab zu, den Brief unterschrieben zu ha-
ben. Er gab weiterhin zu, dass er sehr selten persoenlich Briefe an sei-
nen obersten Vorgesetzten in der SS, Himmler, schrieb. (R. 7731). Ange-
sichts der hohen Stellung des Adressaten ist nicht anzunehmen, dass er
den Brief vor seiner Absendung nicht sorgfaeltig gelesen haette, selbst
wenn er dessen Inhalt fuer nicht sehr wichtig hielt. Brack macht
bei der Abfassung des Briefes sehr feine Unterschiede, z.B. ist die Phrase
"bei dieser Gelegenheit" absolut nicht gleichbedeutend mit "in diesem
Zusammenhange", und die gebrauchte Phrase bedeutete "im Laufe dieses Ge-
spraechs". (Brack, R. 7522).

Dass Bracks Verteidigung erfunden ist, wird durch einen anderen Be-
weis im Protokoll dargetan. SS-Richter Dr. Morgen, welcher den Kriminal-
fall Wirth untersuchte, gab als Zeuge vor dem Internationalen militaer-
gerichtshof an, dass zu der Zeit als Wirth die Massenausrottung der Juden
uebernahm, er schon ein Spezialist in der Vernichtung von Menschenleben
gewesen waere. Er haette vorher die Aufgabe der Vernichtung von Geistes-
schwachen durchgefuehrt. Diese Aufgabe sei ihm von der Kanzlei des Fuehrers,
Buhlers Amt, erteilt worden. Ein System, das Wirth

während seiner Tätigkeit beim Euthanasieprogramm ersonnen hatte, ermöglichte die Ausrottung einer grossen Anzahl von Menschen mit einigen wenigen Helfern. Das gleiche System wurde mit einigen Verbesserungen bei der Ausrottung der Juden angewendet. Die Betrauung Wirths mit der Aufgabe der Ausrottung der Juden erfolgte durch das Amt Bouhlers, dasselbe Amt, in dem Brack tätig war; Morgen prüfte Wirths Korrespondenz und stellte fest, dass der Kurier, welcher diese Post brachte, von der Kanzlei des Führers, Tiergartenstrasse, kam, dem Orte, wo sich das Amt des Euthanasieprogrammes befand. Morgen erinnert sich, dass Blankenburg, Bracks Stellvertreter, sich unter den Leuten befand, die mit diesem Ausrottungsprogramm in Verbindung standen. (NO-2614, Ankl. Bew. 504, R. 7735-7). Brack gab zu, dass Wirth im Euthanasieprogramm tätig war. (R. 7733). Es kann leicht möglich sein, dass Morgen seine Untersuchungen im Juli 1943 begann (I...T. Protokoll, R. 15289), aber durch die von Gorgass abgegebene eidesstattliche Erklärung ist bewiesen, dass Wirth diese Aufgabe von der "Gruendung" (Foundation), einer der getarnten Gesellschaften des Euthanasieprogrammes, schon im Sommer 1941 erhielt. (NO-3010, siehe oben).

Dieser Beweis wird durch die eidesstattliche Erklärung von Gerstein erhaftet. Globocnik hatte die Leitung der Ausrottungslager bei Lublin, und Wirth war sein Mitarbeiter bei der Ausrottung der Juden. Die Gaskammern wurden als "Bade- und Inhalation-Räume" getarnt und hiessen "Gruendung" Heckenholt. Ärztekommisssionen bereisten Städte und Dörfer Polens und der Tschechoslowakei, um Personen für die Vernichtung auszuwählen. (1553-PS, Ankl. Bew. 428, R. 1880-6). Bei seiner Befragung durch den Gerichtshof gab Brack zu, dass die Gaskammern der Euthanasiestationen, in denen die Opfer des Euthanasieprogrammes getötet wurden, als "Duschräume" getarnt waren. (R. 7659). "Gruendung" war einer der Decknamen,

unter welchen das Euthanasieprogramm durchgefuehrt wurde. (Brack, R. 7577; NO-3010, siehe oben). Die Aehnlichkeit zwischen dem Vernichtungssystem in den Euthanasiestationen und dem von Globocnik und Wirth angewandten System ist keine zufaellige.

Beweise haben gezeigt, dass Brack selbst Plaene fuer die Massenausrottung der Juden entwarf. Anfang Oktober 1941 hatte Brack eine Besprechung mit Eichmann vom Reichssicherheitshauptamt der SS und mit Wetzel vom Reichsministerium fuer die besetzten Gebiete ueber die "Loesung der Judenfrage". (NO-997, Ankl. Bew. 506, R. 7741). Brack erklaerte sich bereit, bei der Herstellung der notwendigen Gaskammern und Vergasungseinrichtungen fuer die Ausrottung aller arbeitsunfaehigen Juden mitzuarbeiten. Da die Herstellung dieser Einrichtungen im Osten leichter war, stimmte Brack zu, einige seiner Mitarbeiter, und besonders seinen Chemiker Kallmeyer, zu diesem Zwecke dorthin zu senden. Brack schlug die vollstaendige Vernichtung aller arbeitsunfaehigen Juden vor. Da Eichmann, den Hitler mit der Loesung der Judenfrage beauftragt hatte, Bracks Vorschlaegen zustimmte, wurde gegen die Ausrottung aller dieser arbeitsunfaehigen Juden mit dem "Brackschen Hilfsmittel" kein Einwand erhoben. (NO-365, Ankl. Bew. 507, R. 7743-4). Kallmeyer war der technische Sachverstaendige fuer den Betrieb von Gaskammern in den Euthanasiestationen. (Brack, R. 7743). Nach Eichmanns eigener Schaeztung wurden ungefaehr 4 Millionen Juden in diesen Ausrottungsbetrieben, d.h. mit "Brackschem Hilfsmittel" getoetet. (NO-2737, Ankl. Bew. 505, R. 7740; I.A.T. Urteil, Seite 16924).

SCHLUSS

Brack war schon im Jahre 1923 ein eifriger Anhaenger Hitlers. Er war der 901. Mann, der der SS beitrat. Er stieg in der Nazi-

hierarchie zu einer machtvollen und einflussreichen Stellung in der Fuehrerkanzlei der NSDAP auf. Brack war einer der Hauptpersonen bei der Durchfuehrung des Euthanasieprogrammes, welches die ruecksichtslose Ermordung Hunderttausender hilfloser Maenner, Frauen und Kinder zum Gegenstand hatte. Dies war kein Programm der Naechstenliebe, um die Schmerzen eines bevorstehenden und unausweichlichen Todes zu erleichtern. Es war vielmehr ein Programm fuer die Vernichtung derer, die als Buerde des Staates angesehen wurden, die arbeitsunfaehig waren und die verzehrten, ohne zu erzeugen. In keinem Gesetz konnte dafuer auch nur ein Schein von Legalitaet gefunden werden. Es war in seinem Ursprung und in seiner Durchfuehrung ungesetzlich. Sogenannte Sachverstaendige urteilten ueber Leben und Tod eines Patienten auf Grund von Fragebogen, ohne dass der Sachverstaendige den Patienten ueberhaupt nur gesehen hatte. Es umfasste die Ermordung von Deutschen und auch von Einwohnern der besetzten Gebiete. Es erstreckte sich auf die Insassen von Konzentrationslagern nichtdeutscher Nationalitaet, die mit Gewalt in Deutschland zurueckgehalten wurden.

Wissenschaftliche Moerder, die in den Gaskammern der Euthanasiestationen ausgebildet worden waren, wurden nach dem Osten gesandt, um bei der Massenermordung der Juden mitzuhelfen. Brack sandte Euthanasie-Personal zu Globocnik, der die Vernichtungslager im Gebiet von Lublin leitete. Brack hatte eine Besprechung mit Eichmann, der fuer die Loesung der Judenfrage verantwortlich war, und sich bereit erklaerte, die Errichtung von Vergasungseinrichtungen zur Ausrottung aller arbeitsunfaehigen Juden zu beaufsichtigen. Er sandte Kallmayer, den Aufseher fuer Gaskammern in den Euthanasiestationen, als Helfer fuer dieses Projekt, das "Bracksches Hilfsmittel" genannt wurde. Brack beschraenkte seine Judenverfolgung nicht auf direkten Mord. Er schlug vor, dass jene Juden, die wegen ihrer Arbeitsfaehigkeit nicht sofort ausgerottet wuerden, unfruchtbar gemacht werden sollten. Er begann Sterilisationsversuche an polnischen Juden im Konzentrationslager Auschwitz mit Hilfe von koentgenstrahlen.

Die Opfer wurden, nachdem sie schweren Röntgenverbrennungen in der Gegend der Geschlechtsorgane ausgesetzt worden waren, durch eine Operation kastriert. Die meisten von ihnen wurden später getötet.

Die Anklagebehörde unterstellt, dass das Beweismaterial ergibt, dass Viktor Brack Haupttäter, Teilnehmer, Anstifter, Vorschubleistender war, seine Zustimmung gab und in Verbindung stand mit Plänen und Unternehmungen, die die Durchführung medizinischer Experimente an lebenden Menschen, ohne Zustimmung der Betroffenen, zum Gegenstand hatten, in deren Verlauf Morde, Brutaltaten, Grausamkeiten, Folterungen, Greueltaten und andere unmenschliche Handlungen begangen wurden, und dass seine Schuld im Sinne der Punkte I, II, III und IV der Anklagebehörde erwiesen ist.

Ich, Fred Lax No. X046 207 bestaetige hiernit, dass ich
durchaus vertraut mit der englischen und deutschen Sprache
bin, und dass das Vorstehende eine wahrheitsgemaeße und
richtige Uebersetzung des Dokuments Brack ist.

27. Juni 1947

Fred Lax
No. X046 207

MILITÄRGERICHTSHOF NO. I

FALL NR. 1

ZUSAMMENFASSENDE SCHRIFTSATZ FÜR DIE
VEREINIGTEN STAATEN VON AMERIKA

- gegen -

KARL BRANDT

James M. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

Für:

Nürnberg,
16 June 1947

Telford Taylor
Brigadier General, U.S.A.,
Chief of Counsel for War Crimes



EINFUEHRUNG

Unter Punkt I der Anklageschrift wird der Angeklagte Karl Brandt im wesentlichen beschuldigt, dass er sich mit anderen Personen im Verfolge eines gemeinsamen Vorhabens zu einer Verschwörung und Uebereinkunft zusammengefunden hat, um medizinische Experimente an lebenden Menschen ohne deren Zustimmung vorzunehmen; unter Punkt II und III (Kriegsverbrechen und Verbrechen gegen die Menschlichkeit) dass er Haupttaeter, Teilnehmer, Anstifter, Vorschubleistender gewesen ist, seine Zustimmung gegeben und mit Plänen und Unternehmen in Verbindung gestanden hat, die die Durchführung medizinischer Experimente an lebenden Menschen ohne Zustimmung der Betreffenden zum Gegenstand hatten, und das sogenannte Euthanasieprogramm durchgeführt zu haben; unter Anklagepunkt IV, nach dem 1. September 1939 ein Mitglied der SS gewesen zu sein, einer Organisation, die vom Internationalen Militärgerichtshof als verbrecherisch erklärt worden ist.

Die als Kriegsverbrechen und Verbrechen gegen die Menschlichkeit anerkannten Handlungen sind in den Absätzen 1 (b) und (c) des Artikels II des Kontrollratgesetzes Nr. 10 angeführt. Die Mitgliedschaft bei einer vom Internationalen Militärgerichtshof als verbrecherisch erklärten Organisation wird in Absatz 1 (d) desselben Artikels als Verbrechen bezeichnet.

Die Strafbarkeitsmerkmale sind in Artikel II Absatz 2 des Kontrollratgesetzes Nr. 10 angeführt:

"2. Ohne Rücksicht auf seine Staatsangehörigkeit oder die Eigenschaft, in der er handelte, wird eines Verbrechens nach Massgabe von Ziffer 1 dieses Artikels für schuldig erachtet, wer (a) als Täter oder (b) als Beihelfer bei der Begehung eines solchen Verbrechens mitgewirkt oder es befohlen oder begünstigt oder (c) durch seine Zustimmung daran teilgenommen hat oder (d) mit seiner Planung oder Ausführung in Zusammenhang gestanden hat oder (e) einer Organisation oder Vereinigung angehört hat, die mit seiner Ausführung in Zusammenhang stand,.....".

1. STELLUNG - VERANTWORTUNG

Der Angeklagte Karl Brandt bekleidete Stellungen von grossem Machtbefugnis und Verantwortlichkeit im Gesundheitswesen des nationalsozialistischen Deutschlands.

Er trat der NSDAP im Jahre 1932 bei und der SS im Jahre 1934. Im letzteren Jahr, mit 30 Jahren, wurde er Adolf Hitlers behandelnder Arzt und behielt diese Stellung bis 1945 bei. Seine engen persönlichen Beziehungen zum Führer erklären seinen schnellen Aufstieg zur Macht. An dem Tag des Einfalls in Polen im Jahre 1939 befahl Hitler Brandt und Philipp Bouhler, das sogenannte Euthanasieprogramm durchzuführen. Durch einen Erlass des Führers vom 28. Juli 1942 wurde er zum Generalkommissar für das Sanitäts- und Gesundheitswesen ernannt und war Hitler direkt verantwortlich. Brandt war der einzige deutsche Sanitätsoffizier mit einer solch direkten Verantwortlichkeit. Durch einen Erlass vom 25. August 1944 wurde er zum Reichskommissar für das Sanitäts- und Gesundheitswesen ernannt, was dem Range eines Reichsministers entsprach. Er stieg zum Rang eines Gruppenführers (GeneralLt) der SS auf. (NO-475, Ankl.Bew. 4, R. 89 und folgende). Brandt war auch von 1942 bis zum Kriegsende Mitglied des Reichsforschungsrats. (NO-1730, Ankl.Bew. 441, R. 2091).

Abgesehen von seinem persönlichen Einfluss und seinem vertrauten Verhältnis mit Hitler rührten Brandts grössten Machtbefugnisse im Sanitätswesen von seiner Stellung als Generalkommissar und später Reichskommissar für das Sanitäts- und Gesundheitswesen her. Durch den Erlass vom 28. Juli 1942 schuf Hitler zum ersten Male die Stellung eines Sanitäts- und Gesundheitsbeamten unter seiner unmittelbaren Kontrolle. Dieser Erlass setzte auch den Angeklagten Handloser zum Chef des Wehrmachts-Sanitätswesens ein, während auf dem Gebiet des zivilen Gesundheitswesens Dr. Leonard Conti, der Staatssekretär im

Reichsministerium des Innern und Reichsgesundheitsführer mit "Gleichrichtungs-¹¹assnahmen" beauftragt wurde. Hinsichtlich Brandt lautete der Erlass:

"3. Für Sonderaufgaben und Verhandlungen zum Ausgleich des Bedarfs an Ärzten, Krankenhäusern, Medikamenten usw. zwischen dem militärischen und dem zivilen Sektor des Sanitäts- und Gesundheitswesens bevollmächtige ich Professor Dr. med. Karl Brandt, der nur mir persönlich unterstellt ist und von mir unmittelbare Weisungen erhält.

4. Mein Bevollmächtigter für das Sanitäts- und Gesundheitswesen ist über grundsätzliche Vorgänge im Wehrmacht-sanitätswesen und zivilen Gesundheitswesen laufend zu unterrichten. Er ist berechtigt, sich verantwortlich einzuschalten." (Unterstreichungen eingefügt) (NO-080, Ankl.Bew. 5, R. 93).

Auf diese Weise wurden Brandt ausgedehnte Machtbefugnisse über Handloser als auch Conti, und durch sie über das Heer, die Marine, die Luftwaffe, die Waffen-SS und das zivile Sanitätswesen gegeben. Er war niemandem als dem Führer verantwortlich; er war der Mann, der für den Führer in medizinischen Angelegenheiten handeln sollte. Es ist auch bezeichnend, dass der Erlass Brandt berechtigte, "sich verantwortlich einzuschalten" und anordnete, dass er über "grundsätzliche Vorgänge" zu unterrichten sei. Es fällt schwer, sich vorzustellen, was fundamentaler wäre als eine Politik der Vor-
an unfreiwilligen Versuchspersonen
nahme medizinischer Experimente/ die Qualen und Tod mit sich brachten.

Am 5. September 1943 erliess Hitler einen zweiten Erlass, der Brandt bevollmächtigte, "zentral die Aufgaben und Interessen des gesamten Sanitäts- und Gesundheitswesens zusammenzufassen und weisungsgemäss zu steuern. Der Erlass stellte ausdrücklich fest, dass die Autorität des Generalkommissars sich auf das Gebiet der ärztlichen Wissenschaft und Forschung erstreckte. (NO-081, Ankl.Bew.6, R.94). Es ist indessen offensichtlich, dass dieser Erlass eher dazu bestimmt war, die Machtbefugnisse des Generalkommissars klarzustellen als sie zu erweitern, da Brandt nach dem Erlass vom Juli 1942 das Recht (und in der Tat die Pflicht) hatte, "sich verantwortlich einzuschalten".

Am 25. August 1944 schliesslich beförderte der Führer Brandt zum Reichskommissar für das Sanitäts- und Gesundheitswesen und erklärte, dass in dieser Eigenschaft "sein Amt die höchste Autorität im Reich darstellt". Er wurde wiederum bevollmächtigt, "den Dienststellen und Organisationen des Staates, der Partei und der Wehrmacht, die sich mit den Aufgaben des Sanitäts- und Gesundheitswesens befassen, Weisungen zu erteilen." (NO-082, Ankl.Bew. 7, R. 95). Siehe auch die von Brandt aufgestellte Organisationstafel. (NO-645, Ankl.Bew. 3, R. 88 u. ff.). Dieser Erlass wurde herausgegeben, um einen Machtstreit zwischen Brandt und Conti zu entscheiden. (Brandt, R. 2602). Gewiss gibt der Erlass Brandt lediglich einen hochtrabenderen Titel und zählt nur nochmals seine Machtbefugnisse auf, Machtbefugnisse, die ihm schon am 28. Juli 1942 erteilt worden waren. Brandt sagt aus, dass er lediglich seine Stellung "stärkte". (R. 2602).

Im selben Zusammenhang ist es wichtig, von gewissen Bestimmungen der Dienstanweisungen für den Chef des Wehrmacht-Sanitätswesens Kenntnis zu nehmen, die dem Angeklagten Handloser von Keitel am 7. August 1944 gegeben wurden. Absatz 2 und 3 des Abschnitts II (Pflichten) derselben lautet auszugsweise wie folgt:

- "2. Der Chef des Wehrmachtsanitätswesens leitet in fachlicher Hinsicht das gesamte Sanitätswesen der Wehrmacht nach den militärischen Weisungen des Chefs des Oberkommandos der Wehrmacht und den allgemeinen Richtlinien des Generalkommissars des Führers für das Sanitäts- und Gesundheitswesen.
3. Der Chef des Wehrmachtsanitätswesens unterrichtet den Generalkommissar des Führers über grundsätzliche Vorgänge im Wehrmachtsanitätswesen." (NO-237, Ankl.Bew.11, R.103).

Wir sehen also, dass Handloser in diesen Dienstanweisungen befohlen wurde, den Vorschriften des Generalkommissars Brandt zu folgen und ihn von "grundsätzlichen Vorgängen" auf dem Gebiet des Wehrmachtsanitätswesens in Kenntnis zu setzen. Dieses Gebiet schloss das Sanitätswesen des Heeres, der Marine,

der Luftwaffe und der Waffen-SS ein. Diese Anweisung wurde am 7. August 1944 erlassen, um an die Stelle der vom 28. Juli 1942 zu treten. (R.102). Zu diesem letzteren Zeitpunkt wurde Handloser durch denselben Führererlass, der Brandt zum Generalkommissar machte, zum Chef des Wehrmachtsanitätswesens ernannt; am 7. August 1944 gab Handloser seine Stellung als Chef der Heeres-Sanitätsinspektion, die er seit Februar 1941 inne hatte, auf. (NO-443, Ankl.Bew. 10 R. 98). Es muss also die Frage erwogen werden, ob die Dienstanweisung vom 28. Juli 1942, die nicht verfügbar ist, auch von Handloser verlangte, Brandt Bericht zu erstatten. Kein anderer Schluss kann gezogen werden. Absatz 5 der Führererlasses vom 28. Juli 1942 ordnet ausdrücklich an, dass Brandt "über grundsätzliche Vorgänge im Wehrmachtsanitätswesen und zivilen Gesundheitswesen laufend zu unterrichten ist. Er ist berechtigt, sich verantwortlich einzuschalten." Brandt war also schon am 28. Juli 1942 der technische oder ärztliche Vorgesetzte von Handloser und Conti, die den Befehl hatten, ihn Bericht zu erstatten. Im Absatz 6 seiner eidesstattlichen Erklärung stellt der Angeklagte Handloser ausdrücklich fest, dass, nachdem er am 28. Juli 1942 Chef des Wehrmachtsanitätswesens wurde, "Dr. Karl Brandt, Generalkommissar für das Sanitäts- und Gesundheitswesen und später Reichskommissar für das Sanitäts- und Gesundheitswesen, in medizinischen Angelegenheiten mein direkter Vorgesetzter war". (NO-443, Ankl. Bew. 10, R. 99). Siehe auch die Organisationstafel des Wehrmachtsanitätswesens, die von Handloser angefertigt wurde. (NO-282, Ankl.Bew. 9, R. 97).

Beweis für die ausgedehnten Machtbefugnisse Karl Brandts wird auch noch durch anderes Material in den Akten geführt. Schroeder stellt im Absatz 8 seiner eidesstattlichen Erklärung fest, dass "Karl Brandt, Handloser und Rostock über die von der Luftwaffe durchgeführten medizinischen Forschungsarbeiten Bescheid wussten." (NO-449, Ankl.Bew. 130, R. 474).

Ueberdies zeigen die von Schroeder aufgestellten Organisations-
tafeln des Luftwaffen-Sanitätsdienstes, dass Brandt sowohl
vor 1944, als Hippke den Befehl führte, und nach 1944, als
Schroeder den Befehl führte, Aufsichts-befugnisse über den
Sanitätsdienst der Luftwaffe hatte. (NO-418, Ankl.Bew. 12;
NO-419, Ankl.Bew. 13, R. 105).

Dieselbe Tatsache wird hinsichtlich des Sanitätswesens
der SS durch die von Mrugowsky angefertigten Organisations-
tafeln bewiesen. (NO-416, Ankl.Bew. 22; NO-417, Ankl.Bew. 23,
R. 121). Seine Macht ging soweit, dass er alle deutschen
Ärzte von den Verpflichtungen des Ärzte-Patienten-Verhältnisses
entbinden und diesen Ärzten befehlen konnte, ernsthafte Er-
krankungen hoher Regierungsbeamter ihm zu berichten. (NO-119,
Ankl.Bew. 445, R. 2586).

Soviel über Karl Brandts Stellung als Generalkommissar
und Reichskommissar für das Sanitäts- und Gesundheitswesen.
Es wurde festgestellt, dass Brandt 1942 Mitglied des Reichs-
forschungsrats wurde. (NO-1730, Ankl.Bew. 441, R. 2091;
Brandt, R. 2598). Der Zweck des Reichsforschungsrats wurde
in einem Führererlass vom 9. Juni 1942 dargelegt, der aus-
zugsweise wie folgt lautet:

"Die Notwendigkeit, alle vorhandenen Kräfte in Staats-
interesse zu höchster Leistung zu entfachen, erfordert
nicht nur im Frieden, sondern vor allem auch in Kriege
den zusammengefassten Einsatz der wissenschaftlichen
Forschung und ihre Ausrichtung auf die zu erstrebenden
Ziele.

"Ich beauftrage daher den Herrn Reichsmarschall Hermann
Göring, zu diesem Zwecke einen Reichsforschungsrat mit
selbständiger Rechtspersönlichkeit zu bilden, in ihm
selbst den Vorsitz zu übernehmen, und ihm eine Satzung
zu geben.

"Führende Männer der Wissenschaft sollen auf ihren Son-
dergebieten in Gemeinschaftsarbeit in erster Reihe die
Forschung für die Kriegführung fruchtbar gestalten."
(NO-894, Ankl.Bew. 38, R. 144).

Brandt war auch Mitglied des Präsidialrats des Reichs-
forschungsrats, eine

richtunggebende Koerperschaft von 21 Mitgliedern, die sich aus Kabinettsministern, hohen Offizieren und hochstehenden Parteimitgliedern zusammensetzte. (Brandt R. 2605). Himmler, Bormann, Conti, Keitel und Milch waren mit Brandt zusammen Mitglieder. Zumindest von der Zeit an, als Aostock unter Brandt sein Amt als Leiter des Amtes für Wissenschaft und Forschung antrat (im Anschluss an den Führererlass vom 5. September 1943), unterstand der Reichsforschungsrat in einem gewissen Ausmass der Aufsicht Brandts als Generalkommissar. Siehe die Organisationstafel von Brandts Dienststelle. (NO-64 Ankl. Bew. 3, R. 88).

Das Beweismaterial hat gezeigt, dass der Reichsforschungsrat medizinische Versuche an unfreiwilligen Versuchspersonen - Konzentrationslagerinsassen - unterstützte und förderte. Schon im Dezember 1942 wurde der Reichsforschungsrat vom Reichsfinanzminister gebeten, ein Ersuchen des Reichsarzt SS Grawitz, um Geldmittel für Forschungszwecke zu begutachten. Dr. Montzel vom Reichsforschungsrat genehmigte diesen Geldzuschuss am 25. März 1943 mit dem Bemerken: "Soweit sie zum kleineren Teil für den Ausbau wissenschaftlicher Arbeitsmöglichkeiten gemacht sind, beziehen sie sich ausschliesslich auf solche Angelegenheiten, die lediglich mit den der Waffen SS zur Verfügung stehenden Material (Häftlinge) durchführbar sind und daher von keiner anderen forschenden Stelle übernommen werden können." (002-PS, Ankl. Bew. 39, R. 152). (Die Niederschrift ist in diesen Punkt unrichtig, und es wird auf Dokumentenbuch Nr. 1 verwiesen). Die Anklagebehörde lenkte die Aufmerksamkeit des Gerichtshofs auf die Feststellungen des Internationalen Militärgerichtshof in Fall Nr. 1, die folgendermassen lauten:

"In Zusammenhang mit der Verwaltung der Konzentrationslager verlegte sich die SS auf eine Reihe von Experimenten an Menschen, die an Kriegsgefangenen oder den Insassen von Konzentrationslagern ausgeführt wurden. Diese Versuche schlossen Erfrierung und Tötung durch vergiftete Ägeln ein. Die SS war in der Lage, Regierungszuschüsse für diese Forschungsarbeit zu erhalten, und zwar deshalb, weil ihr Menschenmaterial zugänglich war, über das andere Dienststellen nicht verfügen konnten." (R. 153).

Die Tätigkeit des Reichsforschungsrats in Bezug auf verbrecherische Versuche an unfreiwilligen Versuchspersonen beschränkte sich nicht auf Bewilligung von Zuschüssen für Forschungen der SS. Forschungsaufträge wurden von ihr erteilt, die Experimente an Konzentrationslagerinsassen zum Gegenstand hatten. So erhielt Rascher im Herbst 1943 vom Reichsforschungsrat einen Auftrag, Trocken-Kälteversuche durchzuführen, während Hirt mit der^{sen} Unterstützung in Natzweiler Sonfgasversuche vornahm. (NO-690, Ankl.Bew. 120, R. 371 u. ff.; Doc. NO-432, Ankl.Bew. 119, R. 369). Interesse wurde auch dem von Rascher in Dachau entwickelten Blutstillungsmittel entgegengebracht. Bei den Versuchen damit wurden Konzentrationslagerinsassen erschossen. (NO-613, Ankl.Bew. 243, R. 962). Und zusammen mit der Luftwaffe förderte der Reichsforschungsrat Fleckfieber-, Gelbfieber- und Gelbsuchtversuche durch Haagen an Insassen des Konzentrationslagers Natzweiler. (NO-137, Ankl. Bew. 189, R. 737). Solcher Art war die Tätigkeit des Reichsforschungsrats.

Kein Zweifel kann daran bestehen, dass Brandt über diese Tätigkeit Bescheid wusste. Er stand in der Tat in persönlicher Verbindung mit der von Hirt an K.Z. Insassen vorgenommenen Gasforschung. (Siehe unten). Im Präsidialrat waren nur zwei Ärzte (Brandt und Conti) und nur 4 Ärzte in den wissenschaftlichen Abteilungen und den Fachgebieten der Bevollmächtigten (Schreiber, Blome, Sauerbruch und Jotten. (Brandt, R. 2607). Sicherlich wusste jeder dieser Männer, was der andere im Präsidialrat tat.

Dieses waren also die verantwortlichen Stellungen des Angeklagten Karl Brandt: Leibarzt Adolf Hitlers, Gruppenführer in der SS, Mitdirektor des Euthanasieprogramms, Generalkommissar und Reichskommissar des Sanitäts- und Gesundheitswesens und Mitglied des Präsidialrats des

Reichsforschungsrats. Brandt benutzte die obigen Stellungen, seinen persönlichen Einfluss und sein vertrautes Verhältnis zum Führer in einer Weise, die die Begehung von Kriegsverbrechen und Verbrechen gegen die Menschlichkeit, die in der Anklageschrift aufgeführt sind, mit sich brachte.

II. PERSÖNLICHE BETEILIGUNG AN VERBRECHERISCHEN EXPERIMENTEN

Man kann nicht erwarten, dass ein Mann in der Stellung Brandts sich dazu herablassen würde, selbst verbrecherische Versuche vorzunehmen. Dies blieb willigen und ehrgeizigen Händen einer niedrigeren Rangstufe überlassen. Aus dem Beweismaterial geht aber eindeutig hervor, dass er persönlich zu Experimenten an Versuchspersonen ohne deren Zustimmung ermutigte. Und was noch schlimmer ist: obwohl er ganz genau wusste, dass von Ärzten der Luftwaffe, des Heeres, der SS und von nichtmilitärischer Seite systematisch Versuche an Konzentrationslagerinsassen vorgenommen wurden, machte er nie von den ungeheuren Machtbefugnissen, die ihm zustanden, Gebrauch, um dieser Verderbtheit, die Mord, Folterung und unmenschliche Behandlung von Tausenden hilfloser Männer, Frauen und Kinder zur Folge hatte, ein Ende zu bereiten.

Der Schwerpunkt der Beschuldigung unter Ziffer 6, Anklagepunkt II (Kriegsverbrechen), und Ziffer 11, Anklagepunkt III (Verbrechen gegen die Menschlichkeit), ist, dass alle Angeklagten Haupttäter, Teilnehmer, Anstifter, Vorschubleistende waren, ihre Zustimmung gaben und in Verbindung standen mit Plänen und Unternehmungen, die die Durchführung medizinischer Experimente an lebenden Menschen ohne deren Zustimmung der Betroffenen zum Gegenstand hatten, in deren Verlauf Mord, Brutaltaten, Grausamkeiten, Folterungen, Greueltaten und andere unmenschliche Handlungen begangen wurden. In Ziffer 6 wird aufgeführt, dass die Versuchspersonen Zivilangehörige und Angehörige der bewaffneten Streitkräfte von Nationen waren, die damals mit dem deutschen Reich im Krieg lagen, während es sich in Ziffer 11 um deutsche Zivilpersonen und Angehörige anderer Länder handelt. Darin liegt für die Zwecke dieses Falles der einzige bedeutsame Unterschied hinsichtlich des Beweises der Endtatsachen. Ein Kriegsverbrechen

ist notwendigerweise ein Verbrechen gegen die Menschlichkeit, waehrend ein Verbrechen gegen die Menschlichkeit nur dann ein Kriegsverbrechen darstellt, wenn es gegen eine Zivilperson aus einem besetzten Gebiet oder an einem Kriegsgefangenen begangen wird.

Unter Ziffer 6 werden zwolff verschiedene Arten von Experimenten im einzelnen angefuehrt. Von diesen wird Brandt die besondere Verantwortlichkeit fuer und die Beteiligung an zehn zur Last gelegt, naemlich Hoehe-, Kuelte-, Malaria-, Gas-, Sulfonamid-, Knochen-, Muskel- und Nervenregenerations- und Knochenverpflanzungsversuche, Seewasser-, epidemische Gelbsucht-, Sterilisations- und Fleckfieberversuche. Um die strittigen Punkte zu vereinfachen, hat die Anklagebehoerde ihre Beschuldigung der Teilnahme an Hoeheversuchen zurueckgenommen.

Es obliegt nicht der Anklagebehoerde zu zeigen, dass Brandt mit allen Einzelheiten aller dieser Versuche vertraut war. Der Beweis genuegt, dass er wusste oder haette wissen muessen, dass an unfreiwilligen Versuchspersonen durch Stellen, ueber die er betraechtliche Machtbefugnisse und Autoritaet ausuebte, medizinische Versuche vorgenommen wurden. (Siehe Yamashita, 66 S.Ct. 340, 347 (1946)). Fuer dies und noch mehr ist von der Anklagebehoerde der Beweis erbracht worden.

Die Versuche, bei denen ein unmittelbarer Beweis fuer die Teilnahme seitens Brandt vorliegt, werden zuerst eroertert werden.

A. SULFONAMIDVERSUCHE (Anklageschrift, Ziffer 6 (E))

Sulfonamidversuche wurden im Konzentrationslager Ravensbrueck von der Mitte des Jahres 1942 bis zum August 1943 vorgenommen. Hinsichtlich einer ins einzelne gehenden Darstellung des verbrecherischen Charakters dieser Versuche siehe den Schriftsatz der Anklagebehoerde gegen Gebhardt. Diese Versuche wurden u.a. von den Angeklagten Fischer und Oberheuser unter der Leitung des Angeklagten Gebhardt vorgenommen. (NO-228, Ankl. Bew. 206, R. 767). Die Versuchspersonen waren ueberwiegend polnische Frauen, von denen einige in der Widerstandsbewegung taetig gewesen waren. (Brael-Later, R. 787; Karolewska, R. 816, Dzido, R. 890; Kusmierczak, R. 857).

Es steht einwandfrei fest, dass sie sich nicht freiwillig meldeten. (Brael-Plater, R. 789; Karl, R. 823; Dz. R. 845; Kus. R. 861, Magzka, R. 1451). Die Angeklagten Fischer und Oberheuser gaben zu, dass mindestens drei Personen an den Folgen der Versuche starben. (NO-477, Ankl. Bew. 207, R. 778; NO-487, Ankl. Bew. 208, R. 780). Aus anderem Beweismaterial geht jedoch hervor, dass fuenf der Versuchspersonen an den Folgen der Versuche starben und sechs spaeter hingerichtet wurden. (Dz.R. 845; Kus. R. 862).

Auf der dritten Tagung der beratenden Aerzte der Wehrmacht, die vom 24. bis 26. Mai 1943 in der Militaeraerztlichen Akademie in Berlin stattfand, erstatteten Gebhardt und Fischer einen vollen Bericht ueber die Sulfonamidversuche. Karl Brandt war einer der Ehrengaeste bei dieser Tagung und hoerte die Vortraege von Gebhardt und Fischer. (Brandt, R. 2368). Gebhardt sagte aus, dass er darauf bestand, auf der Tagung einen vollstaendigen Bericht ueber diese Versuche zu geben; dass er mit dem Herrn, der das Programm der Tagung unter sich hatte, sich eingehend ueber den Inhalt des Vortrages unterhielt; dass seiner Erinnerung nach der Angeklagte Rostock der betreffende Herr war, aber da Rostock es abstritt, koenne es auch Schreiber gewesen sein; dass das Programm fuer die Tagung seinen Vortrag unter der Ueberschrift "Besondere Experimente" auffuehrte; dass dies andeutete, dass er etwas besonderes zu zeigen versuchte; und dass die ganze Materie waehrend der Vorbereitungen fuer die Tagung im Mai 1943 mit Rostock oder Schreiber besprochen wurde. (R. 4103-6). Zwischen Gebhardt, Grawitz und Rostock oder Schreiber hatte ein staendiger Briefwechsel bezueglich der Versuche stattgefunden. Als Grawitz mit Rostock oder Schreiber verhandelte, hatte er einen vollstaendigen Bericht ueber die Versuche. (R. 4107). Gebhardt brachte in seiner Aussage ganz klar zum Ausdruck, dass er gegen jede Tarnung war und

bemueht war, die ganze Angelegenheit dieser Versuche an den Tag zu bringen. In seiner Einleitung zu dem Vortrag von Fischer erklarte er ausdruecklich, dass die Versuche an lebenden Menschen ausgefuehrt worden seien. (R. 4109). Gebhardt kann sich seiner Aussage nach nicht bestimmt erinnern, ob er sagte, dass die Versuchspersonen Konzentrationslagerinsassen waren. Der Angeklagte Fischer hat erklart, dass dies klar gemacht wurde. (NO-472, Ankl. Bew. 243, R. 941; vgl. Fischer R. 4365). Gebhardt erklarte, dass die klinischen Einzelheiten der Experimente sehr eingehend davon erlaeutert wurden. Die Versammlung wurde/in Kenntnis gesetzt, dass Versuche an 75 Personen vorgenommen worden seien, dass die Infektionen kuenstlich hervorgerufen worden seien, dass bei der Behandlung der Infektionen verschiedene Praeparate verwendet worden seien, dass chirurgische Behandlung angewandt worden sei und dass drei Personen gestorben seien. (Gebhardt, R. 4109-10).

Brandt war von den Sulfonamidversuchen sogar schon vor der Tagung im Mai 1943 unterrichtet. Gebhardt sagte aus, dass bei einer Gelegenheit vor der Tagung, er Rostock und Brandt auf einem Bahnhof getroffen und er die Veroeffentlichung der Resultate der Versuche mit ihnen besprochen habe. (R. 4222). Gebhardt bekraeftigte dies waehrend eines Verhoers am 5. November 1946. Er sagte aus, dass:

"... es ist doch ein Unsinn diese Anonymitaet der ganzen Sache. Ich habe persoendlich ohne jeden Auftrag einmal ganz sicher dem Brandt gesagt - der jetzt zwar sagt, er kann sich nicht erinnern - und einmal Rostock gesagt: Wisst Ihr auch was wir berichten? Ich weiss nicht was Euch Grawitz geschrieben hat, ich sage Euch: Himmeler hat zu dieser Sulfonamidfrage das und das befohlen, das laeuft, diese Experimente sind auszufuehren; aber ich habe den wissenschaftlichen Rat nur gegeben, weil es der deutschen Wissenschaft zur Verfuegung kommt."

Waehrend desselben Verhoers wurde Gebhardt gefragt, ob es Rostock und Brandt klar gemacht worden sei, dass die Versuche an Gefangenen vorgenommen wuerden, und er erwiderte "Selbstverstaendlich". (R. 4222).

Nachdem Brandt Kenntnis erlangt hatte, hatte er nicht das Recht, sich weiter schweigend zu verhalten; er hatte die Pflicht zu handeln. Brandt tat nichts. Er leitete keine Untersuchung ueber die Experimente ein; er erhob bei der Tagung keinen Widerspruch; er forderte keinen Bericht von der SS ein; er erstattete keinen Bericht an den Fuehrer. Er gab seine Zustimmung zu dieser verbrecherischen Verwendung hilfloser Konzentrationslagerinsassen. Angesichts seiner persoenlichen Erfahrung mit der deutschen Justiz gibt er jetzt zu, dass Hunderttausende von Konzentrationslagerinsassen ungerechterweise eingesperrt worden waren. (R. 2622). Die Zustaende in den Konzentrationslagern waren Brandt nicht unbekannt, da er zugibt, Sachsenhausen, Oranienburg, Mauthausen und Natzweiler besucht zu haben. (R. 2622).

Selbst wenn man annahme, dass die Experimente beendet gewesen seien, als Brandt Kenntnis davon erhielt, so wuerde ihn seine Untaetigkeit zu einem Teilnehmer nach begangener Tat machen. Aber dies war gar nicht der Fall. Noch im August 1943 wurden im Bunker in Ravensbrueck mit Gewalt experimentelle Operationen an sechs polnischen Frauen vorgenommen. (NO-864, Ankl. Bew. 229, R. 923). Diesen Personen haetten Qualen und Verstueummelungen erspart werden koennen, wenn ein Mann mit Autoritaet auf der Tagung im Mai 1943 Einspruch erhoben haette. Ueberdies haette eine Untersuchung der Sulfonamidversuche die Knochen-, Muskel- und Nervenversuche (Anklageschrift Ziffer 6 (F)) ans Licht gebracht, die von denselben Personen am gleichen Ort vorgenommen wurden. Statt dessen forderte Brandt vier Tage spaeter Konzentrationslagerinsassen fuer Epidemische-Gelbsucht-Versuche an. (Siehe unten).

B. EPIDEMISCHE-GELBSUCHT-VERSUCHE (Anklageschrift, Ziffer 6 (H))

Im Anschluss an den Angriff auf Russland wuchs sich die epidemische Gelbsucht (hepatitis epidemica) zu einer Krankheit betraechtlichen Ausmasses in der deutschen Wehrmacht aus. (Gutzeit, R. 2707). Von manchen Einheiten

wurden bis zu 60 % Verluste als Folge dieser Krankheit berichtet. (NO-O10, Ankl. Bew. 187, R. 735). Infolgedessen wurden intensive Anstrengungen gemacht, die Ursachen der epidemischen Gelbsucht und Impfstoffe dagegen zu entdecken. Dohmen und Gutzeit von der Heeres-sanitätsinspektion und Haagen vom Luftwaffen-sanitätswesen befanden sich unter den Ärzten, die an dieser Materie arbeiteten.

Dohmen isolierte als einer der ersten einen Virus, der als Ursache der Gelbsucht angesprochen wurde. Dies wurde dadurch erreicht, dass man Tiere mit Krankheitskeimen von Personen, die an der Krankheit litten, impfte. (Gutzeit, R. 2695). Indessen gingen noch immer die Meinungen weit auseinander darüber, ob Gelbsucht durch Bakterien oder durch einen Virus verursacht wurde. (Gutzeit, R. 3045). Am 1. Juni 1943 erbat Grawitz, Reichsarzt der SS, Himmlers Erlaubnis, Konzentrationslagerinsassen Karl Brandt für Gelbsuchtsforschung zur Verfügung zu stellen. In seinem Brief erklärte er, dass Brandt die Arbeit von Dohmen unterstützte und es für nötig erachtet werde, Menschen mit einem in Tieren gezüchteten Gelbsuchtsvirus zu infizieren. Grawitz teilte mit, dass man mit Todesfällen unter den Versuchspersonen rechnen müsse. (NO-O10, Ankl. Bew. 187, R. 735). Die Verteidigung hat großes Gewicht auf die Behauptung gelegt, dass Gelbsucht gewöhnlich keine tödliche Krankheit ist. Wie dem auch sein möge, Grawitz erklärte nicht, ob die Todesfälle zum Zweck der Vornahme von Leichenöffnungen herbeigeführt werden würden - wie im Fall der Höhenexperimente - oder ob man mit ihnen als Folge der Krankheit selbst zu rechnen hätte - wie im Fall der Fleckfieberversuche - .

Himmler gab seine Zustimmung zur Verwendung von 8 polnischen Juden, die im Konzentrationslager Auschwitz zum Tode verurteilt worden waren. (NO-O11, Ankl. Bew. 188, R. 737). Die Versuche wurden von Dohmen im Konzentrationslager Sachsenhausen ausgeführt,

der
und einige Opfer starben an den Folgen. (NO-371, ankl. Bew. 186, R. 733).
Selbst Gutzeit, ein Zeuge fuer die Verteidigung, gab zu, dass Dohmen in
Sachsenhausen arbeitete, behauptete aber, dass dies nur eine Finte war,
um den Gelbsuchtvirus nicht Grawitz ueberlassen zu muessen, und dass in
Wirklichkeit keine Infektionsversuche vorgenommen wurden. Der Zeuge gab
keine Erklaerung dafuer ab, warum sein Mitarbeiter Dohmen, der kein Mit-
glied der SS war und in keiner Weise Grawitz unterstand, sich mit solch
laecherlichem wissenschaftlichem "Schabernack" abgegeben haben sollte.
(Gutzeit, R. 2758).

Ueberdies war Brandt in die von Haagen und Dohmen 1944 vorgenommenen
Gelbsuchtexperimente verwickelt. Diese sind im Schriftsatz der anklagebe-
hoerde gegen Handloser beschrieben. Bei einem Zusammentreffen mit Vertre-
tern der Wehrmacht und des Reichsforschungsrats am 26. August 1944 be-
zeichnete Rostock als Chef des Amtes fuer Wissenschaft und Forschung die
Forschungen Haagens an hepatitis epidemica als "dringlich". (NO-692, Ankl.
Bew. 457, R. 3408).

C. FLECKFIEBEREXPERIMENTE (Anklageschrift, Ziffer 6 (J))

Der Angriff gegen Russland 1941 warf viele militaereraetliche Probleme
auf, von denen Fleckfieber nicht das unwichtigste war. Die Krankheit nahm
im Herbst 1941 ernsthafte Ausmasse an, und Flecktyphusimpfstoff war so
knapp, dass nur Aerzten, Pflegepersonal und anderem Personal in exponier-
ten Stellungen Schutzimpfungen gegeben werden konnten. (Schmidt, R. 3160-1).

Um der Knappheit an Impfstoffen zu begegnen, empfahl Handloser als
Heeressanitaetsinspektor, dass die Produktion in die Haende der pharmazeu-
tischen Grossindustrie gelegt werden solle. (NO-1323, ankl. Bew. 452, R.
3082). Zwei Grundtypen von Impfstoff wurden in einem betraechtlichem Aus-
mass hergestellt: Der Weigl-Impfstoff aus den Eingeweiden von Laeusen vom

Fleckfieber- und Virusinstitut des OKH in Krakau (und später Lemberg) und der Cox-, Gildemeister-, Haagen-Impfstoff aus Hühnereierkulturen von den Behringwerken der I.G. Farben in Marburg und vom Robert-Koch-Institut in Berlin. Die Wirksamkeit des Leigl-Impfstoffs war schon seit langem erwiesen, aber die des Ei-Impfstoffs war noch nicht erprobt. (NO-732, Ankl. Bew. 451, R. 3060). Auf einer Konferenz am 29. Dezember 1941, an der Handloser, Conti, Gildemeister und Brugowsky teilnahmen, wurde beschlossen, die Wirksamkeit des Ei-Impfstoffs durch Versuche an Menschen festzustellen. (NO-265, Ankl. Bew. 287, R. 1134; vgl. Handlosers Aussage, NO-732, oben).

Als Folge dieser Entscheidung wurde die Versuchstation im Konzentrationslager Buchenwald eingerichtet, und von Januar 1942 bis Anfang 1945 wurden Versuche zur Prüfung der Wirksamkeit der verschiedenen Impfstoffe durch die künstliche Infektion von Insassen ohne deren Zustimmung vorgenommen. (Kogon, R. 1154. und ff.).

Das Problem der Herstellung von Fleckfieberimpfstoff und seine Zuteilung lag nach Brandts Ernennung zum Generalkommissar durch den Führer-erlass vom 28. Juli 1942 offensichtlich innerhalb seiner Zuständigkeit. Ein klarerer Fall von Materialkontrolle kann nicht gefunden werden. Handloser hatte die grundsätzliche Kontrolle über die Verteilung von Impfstoffen. (Handloser, R. 3074, 3090; vgl. die Aussage von Schroeder, R. 3642, 3643). Beide, Handloser und Conti, mussten über grundsätzliche Begebenheiten Brandt Bericht erstatten. Da die Herstellung des Ei-Impfstoffs von der Forschung zur Feststellung ^{seiner} Wirksamkeit abhing, konnten die zwei nicht getrennt werden.

Über die Experimente in Buchenwald berichtete Dr. Ding-Schuler bei der Tagung der beratenden Ärzte der Wehrmacht im Mai 1943. (NO-923, Ankl. Bew. 436, R. 2063).

Brandt gab zu, bei dieser Tagung anwesend gewesen zu sein. (Brandt, R. 2367-8). Waehrend es sein kann, dass Brandt den Bericht selbst nicht gehoert hat, da er in der Hygieneabteilung vorgetragen wurde, kann kein begruendeter Zweifel daran bestehen, dass er davon gehoert hat. Rose erhob gegen die Art der Experimente in Buchenwald Einwendungen, und dies war sicherlich eine Angelegenheit, die ueber den Vortragssaal hinaus Kreise zog. Kogon sagte aus, dass Ding ueber Roses Angriff wuetend war. (Kogon, R. 1176). Ueberdies gab Arthur Dietzsch, Kapo in der Versuchsstation in Buchenwald, unter Eid die Erklaerung ab, dass Ding ihm sagte, dass Brandt Buchenwald besucht haette. (NO-1314, Ankl. Bew. 433, R. 2040).

Dr. Eugen Haagen, Hygieniker fuer die Luftflotte "Reich" und ein Sanitaetsoffizier der Luftwaffe, fuehrte auch Fleckfieberversuche an Insassen des Konzentrationslagers Natzweiler aus. (Schmidt, R. 1368 u. ff.). Diese Versuche wurden fuer die Luftwaffe und fuer den Reichsforschungsrat vorgenommen. (NO-129, Ankl. Bew. 308, R. 1403; NO-137, Ankl. Bew. 189, R. 737). Rostock gab zu, dass das Amt fuer Wissenschaft und Forschung eine Kopie von Haagens Bericht an den Reichsforschungsrat erhielt, das Dokument NO-138, Ankl. Bew. 300. (Rostock, R. 3311). Haagens Fleckfieberforschung wurde bei einer Tagung des Amts fuer Wissenschaft und Forschung im August 1944, bei der Rostock und Mitglieder des Reichsforschungsrats und der Wehrmacht anwesend waren, als dringlich bezeichnet. (NO-692, Ankl. Bew. 457, R. 3408; Rostock, R. 3409). Brandt war Mitglied des Reichsforschungsrats und Rostocks Chef (siehe oben). Siehe auch die eidesstattliche Erklaerung Rudolf Brandts. (NO-370, Ankl. Bew. 294, R. 1385).

D. GAS-VERSUCHE (Anklageschrift, Ziffer 6 (D))

Die Behandlung der durch chemische Kampfstoffe verursachten Wunden war fuer die militaeraerztlichen Kreise Deutschlands von betruechtlichem Interesse. Am 1. Maerz 1944 gab der Fuehrer Karl Brandt weitgehende Befugnisse auf dem Gebiet der chemischen Kriegsfuehrung. (NO-012, Ankl. Bew. 270, R. 1038). Der Erlass selbst steht nicht zur Verfuegung, aber unstrittig erstreckte sich Brandts Zustaeendigkeit auf pharmazeutische Produkte fuer die Behandlung von Gaswunden. Soviel gibt er zu. (R. 2629). Dies fuehrte notwendigerweise dazu, dass die wirksamste Methode der Behandlung festgestellt werden musste. Dass der Erlass medizinische Forschung ueber Gaswunden mit einbezog, kann aus der Tatsache geschlossen werden, dass Abdrucke des Erlasses, die Brandt an Himmler sandte, (NO-012, Ankl. Bew. 270, R. 1038), an Grawitz und an Sievers, die vorher an diesem Problem gearbeitet hatten, weitergeschickt wurden. (NO-013a, Ankl. Bew. 271, R. 1038; NO-013b, Ankl. Bew. 272, R. 1039).

Auf jeden Fall berichtete Sievers Brandt am 31. Maerz 1944 ueber die Forschungstaetigkeit von Hirt. (NO-015, Ankl. Bew. 275, R. 1039). Hirt hatte seit November 1942 an Insassen des Konzentrationslagers Natzweiler Versuche vorgenommen. (NO-098, Ankl. Bew. 263, R. 1028). Siehe den Schriftsatz gegen Sievers fuer eine eingehende Beschreibung von Hirts Versuchen. Brandt gab zu, dass Sievers ihm Hirts schriftlichen Bericht gab, der als Ankl. Bew. 268 vorgelegt wurde (NO-099, R. 1035), und dass aus dem Bericht ohne weiteres hervorgeht, dass Versuche an Menschen von ihm vorgenommen worden waren. (Brandt, R. 2626). Es ist bezeichnend, dass der Bericht von schweren, mittelschweren und leichten, durch Lost verursachten Wunden spricht. Ueberdies gab Brandt zu, dass er in Strassburg mit Hirt im April nach dem Zusammentreffen mit Sievers gesprochen habe. (R. 2610). Versuche mit Gas wurden an ungefaehr 220 Insassen russischer, polnischer, tschechischer und deutscher Nationalitaet vorgenommen, von denen fuenfzig starben. Sie hatten sich nicht freiwillig gemeldet. (Holl, R. 1052, 1057). Hirt setzte seine Gasversuche

in Natzweiler waehrend des Sommers 1944 fort. (Holl, R. 1058). Seine Gasforschung wurde von Hestock im August 1944 als "dringlich" bezeichnet. (NO-692, Ankl. Bew. 457, R. 3408).

Neben seiner Beteiligung an Hirts Gasexperimenten foerderte Karl Brandt persoenlich die verbrecherischen Versuche von Otto Bickenbach. Brandt sagte aus, dass er von den Gasexperimenten Bickenbachs im Herbst 1943 anlaesslich eines Besuchs in Strassburg zwecks Besichtigung eines Zyklotrons Kenntnis erhielt, dass er ihm spaeter half, ein Laboratorium einzurichten, dass er ihn bei der Beschaffung von Versuchstieren unterstuetzte, dass Bickenbach keine Experimente an lebenden Menschen vornahm, dass er ihm im Jahre 1944 half, nachdem er dieses Laboratorium eingerichtet hatte. (R. 2619, 2620).

Sievers' Tagebuch aus dem Jahre 1944 enthaelt unter dem 2. Februar die folgende Eintragung:

"In Karlsruhe Prof. Bickenbach getroffen, der mitteilt, dass er seine Forschungsarbeiten Generalkommissar Prof. Dr. Brandt unterstellt habe.

"Besprechung mit Hauptsturmfuehrer Hirt:

1. Prof. Dr. Bickenbach hat ohne Unterrichtung von Hirt und Prof. Stein sich wegen seiner Phosgen-Untersuchungen an Generalkommissar Prof. Dr. Brandt gewandt, war mit ihm in Natzweiler. Auftrag ist zurueckzuziehen, unsererseits Natzweiler zu sperren."

Phosgen ist ein chemischer Kampfstoff. (Brandt, R. 2630). Brandt gibt zu, dass er in Natzweiler war, besteht aber darauf, es seien nur Tierversuche vorgenommen worden. (R. 2630). Dies steht in direktem Widerspruch zu Feststellungen in einem offiziellen Bericht der Regierung der Niederlande ueber Kriegsverbrechen. (NO-1063, Ankl. Bew. 328, R. 1498, siehe die Aussagen von Nales und Roessingh). Josef Kramer, der fruhere Lagerkommandeur von Natzweiler, sagte auch aus, dass Bickenbach an Gefangenen Versuche vornahm. (NO-807, Ankl. Bew. 185, R. 732).

Brandt sagte aus, dass er spaeter Bickenbach half, ein Laboratorium im Fort Franzky bei Strassburg einzurichten und dass er dort Tierversuche sah. (R. 2630). Bickenbach war, wie auch Hirt und Haagen, Professor an der Universitaet Strassburg. (R. 2631).

Die von Bickenbach an Karl Brandt gesandten Berichte beweisen nicht nur, dass Bickenbach und seine Mitarbeiter Helmut Ruhl und Fritz Letz an 40 russischen Kriegsgefangenen Phosgenversuche anstellten, sondern dass auch vier der Versuchspersonen als Folge davon starben. (NO-1852, Ankl. Bew. 456, R. 3406). Dieses Dokument macht die Glaubwuerdigkeit des Angeklagten Brandt voellig zunichte.

Diese Berichte ueber die Phosgenexperimente sind als geheime Kommandosache bezeichnet und mit 2, 3, 4, 5, 6 und 7 nummeriert. Sie sind alle an Generalkommissar Brandt adressiert. Diese Berichte beziehen sich offensichtlich auf dieselbe Versuchsreihe, die in den Versuchen an 40 Gefangenen gipfelte, die im 7. Bericht im einzelnen beschrieben sind. Sie wurden von den franzoesischen Behoerden in der Wohnung von Professor Bickenbach gefunden. Der Zweck dieser Experimente war, die Wirksamkeit eines Praeparates namens Hexamethylentetramin gegen Phosgenvergiftung festzustellen. Gewisse vorlaeufige Studien sind im 4. Bericht vom 11. August 1944 im einzelnen aufgefuehrt, und es werden Versuche erwaeht, die an einem "aengstlichen russischen Kriegsgefangenen ausgefuehrt wurden, der wegen mangelnder Verstaendigungsmoeglichkeit nicht beruhigt werden konnte ...".

Der 7. Bericht, der kein Datum traegt, betrifft Versuche, die kurz nach dem 11. August 1944 -dem Datum des 4. Berichtes - ausgefuehrt wurden, da Strassburg von den Alliierten wenige Monate spaeter ueberrannt wurde. Diese Versuche wurden an "40 Haeftlingen ueber die prophylaktische Wirkung des Hexamethylentetramin bei Phosgenvergiftung durchgefuehrt. Davon wurden 12 oral geschuetzt, 20 intravenoes und 8 dienten als Kontrollpersonen". Auf Grund des 4. Berichts kann nur

der Schluss gezogen werden, dass die 40 erwähnten Gefangenen russische Kriegsgefangene waren. Die Versuchspersonen werden weiterhin beschrieben als "Menschen mittleren Lebensalters, fast alle in schlechtem Ernährungs- und Kräftezustand. Grundsätzlich wurden die kräftigeren als Kontrollen verwendet, nur die Kontrolle Nr. 39 (J.Rei) und die oral geschützte Versuchsperson Nr. 37 (A. Rei.) hatten eine herdfoermige cirrhotische produktive Lungentuberkulose. Die uebrigen waren nicht nachweisbar lungenkrank." (R. 3401).

Die Versuchspersonen mussten sich Phosgenvergiftungen unterziehen, als deren Folge der Tod von mindestens vier Personen eintrat. (Siehe Tafel II und III, die dem 7. Bericht beigelegt ist, R. 3404). Andere Versuchspersonen erlitten schwere Lungenoedeme.

Der Verteidiger von Karl Brandt betonte nachdruecklichst die Moeglichkeit, dass dieser den Bericht nicht erhalten habe. Setzen wir einmal den Fall, dass dieser Bericht an Brandt nicht abgeschickt und, falls dieser ihn erhielt, von ihm nicht gelesen wurde, so verbleibt doch die Tatsache, dass diese Versuche von Bickenbach und seinen Mitarbeitern vorgenommen wurden, deren Arbeit unmittelbar von Brandt kontrolliert wurde. (Siehe oben). Wenn hinsichtlich dieses Punktes kein weiterer Beweis vorlaege, so waere doch der Umstand, dass der Bericht an Karl Brandt adressiert war, genuender Beweis fuer seine Verantwortlichkeit. Uebersdies wurde die Forschungsarbeit sowohl Bickenbachs wie auch Hirts von Brandts Amt fuer Wissenschaft und Forschung unter Rostock fuer dringlich bezeichnet. (NO-692, Ankl. Bew. 457, R. 3408).

Das fortgesetzte Interesse Brandts an der Forschung ueber Kampfstoffe und sein Wissen ueber Versuche an Konzentrationslagerinsassen wird durch den Bericht vom 31. Maerz 1945 gezeigt, der sich auf Versuche im Konzentrationslager Neuengamme bezieht. (NO-154, Ankl. Bew. 446, R. 2638). Dort wurden Wasserentseuchungsversuche mit Insassen vorgenommen. Der Bericht besagt, dass die "dritte Versuchsreihe mit einem Mittel der Lost-Gruppe, dem Stickgas Lost, ausgefuehrt wurde,

gemaess einer Anregung, die von Oberstarzt Dr. Wirth auf der Konferenz mit Reichskommissar Dr. Brandt am 4. Dezember 1944 gegeben wurde.

E. ANDERE VERSUCHE

Das Beweismaterial zeigt, dass auch andere Versuche an Konzentrationslagerinsassen mit Wissen des Angeklagten Karl Brandt vorgenommen wurden.

(1) Sterilisierungsversuche (Anklageschrift, Ziffer 6 (I))

Im Jahre 1941 war es bereits die offizielle Politik des Dritten Reiches, die juedische Bevoelkerung Deutschlands und der besetzten Laender auszurotten. (Urteil des IMT, R. 16920 und folgende). Der Angeklagte Brack beschrieb dies als "offenes Geheimnis" in hoeheren Parteikreisen. (NO-426, Ankl. Bew. 160, R. 527).

Im Mordhandwerk geschulte Personen aus den Euthanasiestationen wurden nach dem Osten entsandt, um bei dem Programm zu helfen. In der Tat wurde das Programm selbst teilweise dazu benuetzt, um die Juden in Deutschland auszurotten. (Siehe unten unter Euthanasie). Wegen des dringenden Arbeitermangels wurde die Sterilisierung von Juden und anderen sogenannten unerwünschten Elementen als eine Alternative gegenueber der direkten Ausrottung betrachtet. Sterilisierung durch Roentgenstrahlen wurde Himmler von Brack vorgeschlagen. Dr. Horst Schumann, frueher bei der Euthanasiestation Grafeneck, wurde ins Konzentrationslager Auschwitz geschickt, um Versuche vorzunehmen. Brack sagte aus, dass dies nicht ohne Wissen Brandts geschehen haette koennen, der gemeinsam mit Bouhler fuer das Euthanasieprogramm verantwortlich war. (NO-426, Ankl. Bew. 160, R. 527; siehe auch die eidesstattliche Erklaerung von Rudolf Brandt, NO-440, Ankl. Bew. 141, R. 507). Ueberdies gibt Brandt zu, Grafeneck im Jahre 1940 besucht zu haben, obwohl er sich nicht ausdruecklich daran erinnert, Schumann getroffen zu haben. (Brandt, R. 2480-1). Dass Sterilisierungen durch Roentgenstrahlen tatsaechlich in Auschwitz vorgenommen wurden, beweist die herzerreissende Zeugenaussage des jungen polnischen Juden Chaim Balicki, der, nachdem er

schweren Verbrennungen durch Röntgenstrahlen ausgesetzt worden war, kastriert wurde. (R. 5/1).

(2) Kälte- und Malariaversuche (Anklageschrift, Ziffer 6 (B) und (C)).

Die Anklagebehörde stützt sich in erster Linie auf die Stellung des Angeklagten Brandt im Zusammenhang mit der ihm zur Last gelegten Verantwortlichkeit fuer die Kälte- und Malariaversuche. Die Malariaversuche wurden in Dachau vom Februar 1942 bis zum Jahre 1945 von Dr. Klaus Schilling, früher beim Robert-Koch-Institut und einer der berühmtesten deutschen Wissenschaftler auf dem Gebiet der Tropenmedizin, vorgenommen. Ueber 1000 Gefangene wurden bei diesen Versuchen verwendet, und mehrere hundert starben als Folge davon. (NO-856, Ankl. Bew. 125, R. 392). Es ist nicht anzunehmen, dass eine solche Angelegenheit in den höheren ärztlichen Kreisen unbemerkt blieb.

Mit den grausamen und moerderischen Kälteversuchen in Dachau befassten sich zwei freimuetige Berichte Holzloehners, der die Versuche mit Hascher und Fink vornahm, gegenueber groesseren Gruppen von Militaerärzten. Die erste Gelegenheit war eine Tagung in Nuernberg ueber Kälteprobleme, die am 26. und 27. Oktober 1942 stattfand. Diese Tagung stand unter der Patenschaft der Luftwaffe, es waren aber auch Vertreter von anderen Zweigen der Wehrmacht anwesend. (NO-401, Ankl. Bew. 93, R. 309). Der Bericht von Holzloehner verursachte eine Art Sensation, da klar aus ihm hervorging, dass Konzentrationslagerinsassen als Versuchspersonen benutzt wurden und einige von ihnen starben. (Lutz, R. 272). Der zweite Vortrag von Holzloehner ueber Kälteprobleme wurde auf einer Tagung der Beratenden Aerzte der Wehrmacht gehalten, die vom Angeklagten Handloser einberufen worden war und in der Militaerärztlichen Akademie vom 30. November bis 3. Dezember 1942 stattfand. Handloser hoerte Holzloehner sprechen, da aus dem als Beweismaterial vorgelegten Bericht hervorgeht, dass er sich zu den Vortraegen ueber Kälteprobleme geaussert hat. (NO-922, Ankl. Bew. 435, R. 2059). Er hatte die Pflicht, solche "grundsatzlichen Vorgaenge" Brandt zu berichten. (Siehe oben).

(3) Seewasserexperimente (Anklageschrift, Absatz 6 (G))

Hinsichtlich der Seewasserexperimente, die von der Luftwaffe in Dachau im Jahre 1944 vorgenommen wurden, genuegt es, auf Schroeders Aussage zu verweisen, dass Brandt, Rostock und Handloser ueber die von der Luftwaffe vorgenommene medizinische Forschungsarbeit unterrichtet waren. (NO-449, Ankl. Bew. 130, R. 471).

(4) Verschiedenes

Andere Dokumente liefern den Beweis dafuer, dass der Angeklagte Brandt nicht nur von der systematischen Verwendung von Konzentrationslagerinsassen fuer medizinische Versuche wusste, sondern solche Versuche selbst sogar vorschlug. Sein Ersuchen um Haeflinge fuer Gelbsuchsversuche ist schon eroertert worden. Am 26. Januar 1943 schrieb er an SS-Obergruppenfuehrer Wolff, dem ersten Verbindungsoffizier zwischen Himmler und dem Hauptquartier des Fuehrers, und fragte, ob es nicht moeglich sei, Ernaehrungsversuche in Konzentrationslagern vorzunehmen. (NO-1419, Ankl. Bew. 447, R. 2641).

Am 30. September 1943 schrieb Grawitz an Himmler, dass ihn Karl Brandt ersucht habe, eine neue Salbe fuer die Behandlung von Phosphorverbrennungen zu pruefen. Grawitz ersuchte um Erlaubnis, das Mittel dadurch zu pruefen, dass an Insassen des Konzentrationslagers Sachsenhausen (Oranienburg) kuenstliche Verbrennungen erzeugt wuerden. Man erachtete die Erprobung des Mittels an deutschen Zivilpersonen, die bei Luftangriffen Verbrennungen erlitten hatten, als zu langsam. Die Zustimmung zu diesen Versuchen wurde am 7. Oktober 1943 gegeben. (NO-1620, Ankl. Bew. 449, R. 2646).

Es ist nicht ohne Bedeutung, dass die Versuche, in deren Verlauf Insassen mit Phosphor aus einer brandbombe Brandwunden zugefuegt wurden, vom 19. November 1943 an in Buchenwald ausgefuehrt wurden. (NO-265, Ankl. Bew. 287, R. 1127; Kogon, R. 1187-90). Es besteht wenig Zweifel daran, dass an Stelle des von Brandt vorgeschlagenen Versuchsortes - Sachsenhausen - Buchenwald gewaehlt wurde. Die Opfer der Versuche erduldeten die peinigendsten Schmerzen. (Kogon, siehe oben).

Am 4. Februar 1944 schrieb der Angeklagte Rudolf Brandt an ein Mitglied von Hitlers persönlichem Stab in Berlin (Baumbert) und bemerkte, dass Karl Brandt um 10 Gefangene in Oranienburg ersucht hatte, um ein gewisses Präparat zu prüfen. Karl Brandt hatte diese Versuche mit Grawitz erörtert. Die Gefangenen wurden zur Verfügung gestellt. (NO-1382, Ankl. Bew. 448, R. 2644).

Endlich geht aus dem Beweismaterial hervor, dass medizinische Versuche an Konzentrationslagerinsassen in einem derartig grossen Umfang ausgeführt wurden, dass sie Keitel, dem Chef des OKW, zu Ohren kamen. Ein von Klieve von der Heeressanitätsinspektion unterzeichnetes Memorandum vom 23. Februar 1944 zeigt, dass Versuche in Verbindung mit der biologischen Kriegsführung an lebenden Menschen von dem Angeklagten Blome vorgeschlagen worden waren. Das Memorandum stellt fest, dass "die Wehrmacht auf Wunsch von Generalfeldmarschall Keitel bei den Versuchen nicht verantwortlich beteiligt werden sollte, da auch Versuche mit Menschen gemacht wurden". (NO-1309, Ankl. Bew. 326, R. 2615). Es steht dem Angeklagten Brandt kaum an, die Kenntnis von solchen Versuchen abzuleugnen, wenn selbst Keitel davon wusste. Aus demselben Dokument geht hervor, dass Brandt Blome bei dem Institut in Posen unterstützte, wo die Versuche vorgenommen wurden. Wegen der Beschreibung der biologischen Kriegsführungsversuche siehe den Schriftsatz der Anklagebehörde gegen Handloser.

III. DAS EUTHANASIE-PROGRAMM (Anklageschrift, Ziffer 9 und 14)

A. Das Verfahren.

Am 1. September 1939 uebertrag Hitler dem Angeklagten Karl Brandt und dem Reichsleiter Bouhler die Durchfuehrung des Euthanasieprogramms.

Der Bestallungsbrief lautete:

"Reichsleiter Bouhler und Dr. med. Brandt sind unter Verantwortung beauftragt, die Befugnisse namentlich zu bestimmender Aerzte so zu erweitern, dass nach menschlichem Ermessen unheilbar Kranken bei kritischster Beurteilung ihres Krankheitszustandes der Gnadenod gewahrt werden kann." (630-PS, Ankl. Bew. 330, R. 1516).

Dieses Dokument beschraenkte die Vornahme von Euthanasie in keiner Weise auf geisteskrankte Personen, sondern schloss jeden ein, der als "unheilbar" bezeichnet werden koennte.

Der Zeuge Mennecke sagte aus, dass das Programm wie folgt durchgefuehrt wurde:

Jede deutsche Anstalt fuer Geisteskrankte erhielt vom Reichsinnenministerium Fragebogen, die fuer jeden Insassen der Anstalt ausgefuellt und an das Reichsinnenministerium zurueckgeschickt werden mussten. Nachdem die Fragebogen photokopiert worden waren, mussten sie von Sachverstaendigen ueberprueft werden. Sie hatten ihre aerztliche Meinung darueber abzugeben und mit ihrer Begutachtung der Reichsarbeitsgemeinschaft zurueckzuschicken. (R. 1872, 1873).

Diese Reichsarbeitsgemeinschaft arbeitete mit der "Stiftung" und der Krankentransportgesellschaft zusammen. Die "Stiftung" hatte die finanzielle Seite des Programms unter sich, waehrend die Krankentransportgesellschaft dann benuetzt wurde, wenn

Patienten von einer Anstalt zur anderen gebracht wurden, um sie in die Nahe der Euthanasieanstalten und endlich in die Euthanasieanstalten selbst zu bringen. Diese drei Organisationen, Reichsarbeitsgemeinschaft, "Stiftung" und Krankentransportgesellschaft waren in der Tat Tarnnamen fuer die Durchfuehrung des Euthanasieprogramms und unterstanden der Aufsicht einer leitenden Stelle. Sie arbeiteten nicht unabhaengig voneinander, sondern zusammen. (R. 1874).

Was die Fragebogen anbelangt, so erhielten drei Sachverstaendige Photokopien und gaben ihr Gutachten ueber einzelne Faelle unabhaengig voneinander ab. Dann brachten sogenannte Obergutachter ihre Meinung zum Ausdruck. Eine Liste derjenigen Patienten wurde aufgestellt, deren Befund lautete, dass sie unter das Euthanasieprogramm fielen, und die Patienten wurden von der Anstalt in sogenannte Sammelstellen gebracht und von dort zu Euthanasieanstalten geschickt. (R. 1877, 1878). Nichtdeutsche Staatsangehoerige und Juden unterlagen der Euthanasie wie die deutschen. (R. 1881, 1923).

Im Fruhsommer 1940 wurde die Taetigkeit der Gutachter auf Konzentrationslagerinsassen ausgedehnt. Eine Aerztekommision, die aus Aerzten und leitenden Persoenlichkeiten des Euthanasieprogramms bestand, fuellten die Fragebogen der Insassen aus, die vorlaeufig von den Lageraerzten ausgesucht worden waren. In der Zeit zwischen 1940 und Ende 1941 wurden zahlreiche Konzentrationslager besucht, manche davon zweimal. (R. 1882, 1883). Dr. Mennecke, der eine Reihe von Konzentrationslagern besuchte, um Insassen auszuwaehlen, erhielt die Befehle fuer diese Taetigkeit von den Obergutachtern im Euthanasieprogramm und vom Angeklagten

Brack. (R. 1882). Den einzelnen Konzentrationslagern wurden diese Reisen von der Berliner Stelle des Programms angekündigt. (R. 1885). Nichtdeutsche Staatsangehörige und Juden, die Insassen von Konzentrationslagern waren, wurden in grosser Zahl dem Euthanasieprogramm unterworfen. (R. 1887).

Eine andere Funktion des Euthanasieprogramms war die Tötung von geistig und körperlich zurückgebliebenen Kindern. Der Zeuge Walter Schmidt sagte aus, dass die Stelle, die diesen Teil des Programms unter sich hatte, der Reichsausschuss zur Erforschung Erb- und Anlagebedingter Schwere Leiden liess. Die Fragebogen wurden von Gesundheitsämtern, den Leitern von Kinderkliniken, Ärzten, Geburtshelfern, Hebammen, Hospitälern usw. ausgefüllt, und Berichte wurden an Dr. Lindens Büro in Berlin erstattet. Linden gehörte zum Innenministerium. Dort verfügte ein Komitee von führenden Sachverständigen auf Grund dieser Berichte die Euthanasie durch sogenannte Ermächtigungsanordnungen in der Form einer Photokopie des Berichtes, der schriftlich genehmigt worden war. Diese Tätigkeit dauerte bis zum Jahre 1944. (R. 1834). Schmidt selbst hatte die Leitung einer besonderen Abteilung für die Tötung solcher missgestalteter Kinder. (R. 1833).

Arbeiter aus den besetzten Ostgebieten, die arbeitsunfähig geworden waren, wurden nach Massgabe des Euthanasieprogramms umgebracht. Omnibusse, die der Krankentransportgesellschaft gehörten und vom Personal des Krankentransports betrieben wurden, brachten diese Opfer zur Ausrottungszentrale Hadamar, wo man sie tötete. (Schmidt, R. 1842-1845; U. S. v. Klein und Genossen, NO-1116, Ankl. Bew. 415, R. 1781).

Dieses Beweismaterial hinsichtlich der Art der Durchfuehrung des Programms wird erhaertet durch die eidesstattliche Erklaerung des Angeklagten Brack (NO-426, Ankl. Bew. 160, R. 527), die eidesstattliche Erklaerung von Pauline Kneissler (NO-470, Ankl. Bew. 332, R. 1534), die von Brack gezeichnete Tafel (NO-253, Ankl. Bew. 331, R. 1523), wie auch durch zahlreiche andere Dokumente in den Akten.

Das Beweismaterial hinsichtlich der Taetigkeit der Obergutachter und Sachverstaendigen des Euthanasieprogramms in den verschiedenen Konzentrationslagern wird durch die eidesstattliche Erklaerung des Dr. Muthig, des Lagerarztes des Konzentrationslagers Dachau, bekraeftigt (NO-2799, Ankl. Bew. 497, R. 7710), der aussagte, dass Professor Heyde als Leiter einer Kommission von vier Psychiatern im Herbst 1941 ins Konzentrationslager Dachau kam. Diese Aerztekommision waehlte arbeitsunfaehige Insassen fuer die Vernichtung durch Gas aus. Heyde war der erste Obergutachter des Euthanasieprogramms. (Brandt, R. 2495). Aus der eidesstattlichen Erklaerung von Dr. Gorgass geht hervor, dass er und Dr. Schumann - beide waren im Euthanasieprogramm taetig - das Konzentrationslager Buchenwald im Juni 1941 besuchten. Gorgass stellt ausdruuecklich fest, dass es der Zweck dieser Reise war, sich mit der Ueberweisung von Konzentrationslagerinsassen an Euthanasieanstalten vertraut zu machen. Der Besuch fand auf Brandts Befehl hin statt, der durch den angeklagten Brack uebermittelt wurde. (NO-3010, Ankl. Bew. 503, R. 7734).

B. Nichtdeutsche Staatsangehoerige und Juden

Nichtdeutsche Staatsangehoerige und Juden, die Insassen von Konzentrationslagern waren, waren Opfer des Euthanasieprogramms, das in diesen Lagern unter dem Decknamen "14 f 13" arbeitete. (NO-429, Ankl. Bew. 281, R. 1083).

Einige Dokumente, die die Anklagebehörde ueber die "14 f 13"-Aktion in Gross-rosen vorlegte, zeigen, wie das Euthanasieprogramm in Konzentrationslagern vor sich ging. Die Liste der Insassen des Konzentrationslagers Gross-Rosen, die an die Euthanasiestation Bernburg zwecks Ausrottung geschickt wurden, enthaelt die Namen vieler nichtdeutscher Staatsangehoeriger und nichtdeutscher Juden. (NO-158, Ankl. Bew. 410, R. 1724, 1725). Juden in Schutzhaft, Polen in Schutzhaft, Juden, die Berufsverbrecher waren, juedische "Drueckeberger", juedische Kasseschaender, tschechische "Drueckeberger" und Tschechen in Schutzhaft befanden sich unter den von den Lageraerzten zur "Untersuchung" durch die Sachverstaendigen ausgesuchten Insassen. (1151-PS, Ankl. Bew. 411, R. 1733).

Ein Vergleich der Namen auf den Listen, die in den Dokumenten Nr. NO-158 und 1151-PS enthalten sind, beweist, dass von den 240 Namen, die zur Ausrottung in der Euthanasiestation Bernburg aufgefuehrt sind, wenigstens 51 polnischer oder tschechoslowakischer Nationalitaet waren. Wieviele der aufgefuehrten Juden nichtdeutscher Nationalitaet waren, kann aus diesen Dokumenten nicht ermittelt werden, aber eine betraechtliche Anzahl von ihnen ist in Laendern ausserhalb Deutschlands geboren, wie aus der in Dok. NO-158 enthaltenen Liste hervorgeht, und es ist daher augenscheinlich, dass eine weitere betraechtliche Anzahl der zur Ausrottung ausersehenen Insassen nichtdeutscher Staatsangehoerigkeit waren. (NO-158, Ankl. Bew. 410; 1151-PS, Ankl. Bew. 411, R. 1735-1739).

Am 17. Maerz 1942 wurden 70 Insassen zur Ausrottung nach Bernburg gebracht. (NO-1873, Ankl. Bew. , R.). Davon waren 27 der nichtjuedischen Gefangenen auf der Transportliste tschechischer oder polnischer Nationalitaet. (Vergl. die Transportliste mit der Liste der Insassen, die urspruenglich in Gross-rosen ausgesucht wurden,

1151-PS, Ankl. Bew. 411, R. 1725). Am 19. März 1942 kamen weitere 57 Häftlinge von Gross-Rosen in Bernburg an. (NO-158, Ankl. Bew. 410, R. 1723). Von diesen waren 15 der nichtjuedischen Gefangenen auf der Transportliste tschechischer und polnischer Nationalität. So waren von der im März 1942 nachweislich nach Bernburg geschickten Gesamtzahl von 127 Häftlingen mindestens 42 oder ein Drittel der Gesamtzahl nichtdeutsche Staatsangehörige, die zwangsweise in einem feindlichen Lande festgehalten wurden. Dass alle diese Häftlinge in Bernburg vernichtet wurden, wird ueberzeugend durch den lakonischen Bericht von Gross-Rosen an das Wirtschafts- und Verwaltungshauptamt nachgewiesen: "Sonderbehandlung von 127 Gefangenen wurde am 2. April 1942 abgeschlossen." (1234-PS, Ankl. Bew. , R.).

Dieser Beweis bezüglich Aktion 14 f 13 wird durch die Zeugenaussage der Zeugen Neff (n. 600-605), Kogon (R. 1210-13), Roemhild (R. 1634-37, 1641) und Holl (R. 1060) noch verstaerkt.

Nichtdeutsche Staatsangehörige und Juden ausserhalb der Konzentrationslager wurden von dem Programm nicht ausgenommen, und viele von ihnen wurden getoetet. Ausser dem oben unter Abschnitt A angefuhrten Beweismaterial ist reichliches Beweismaterial dafuer vorhanden, dass auch nichtdeutsche Staatsangehörige von Anfang 1940 an den ganzen Krieg hindurch der Vernichtung ausgesetzt waren. (NO-1135, Ankl. Bew. 334, R. 1543; NO-818, Ankl. Bew. 373, R. 1609). Juden deutscher und polnischer Staatsbuergerschaft und staatenlose Juden wurden gleichfalls dem Programm unterworfen. (NO-1310, Ankl. Bew. 337, R. 1550). Polnische und russische Staatsangehörige und andere nichtdeutsche Staatsangehörige wurden dem Programm unterworfen. (NO-720, Ankl. Bew. 366, R. 1591-2).

Die Fragebogen enthielten eine Spalte fuer die "Rasse", die spezifiziert wurde: Deutschen oder artverwandten Blutes (von deutschem Blut), Jude, juedischer Mischling ersten oder zweiten Grades, Neger (Mischrasse). (1696-PS, Ankl. Bew. 357, n. 1574). Die Frage wurde

voellig unnootig gewesen sein, wenn Nichtdeutsche von dem Programm ausgenommen gewesen waeren. Ueber alle Patienten, die nicht deutscher Nationalitaet oder artverwandten Blutes waren, mussten Fragebogen ausgefuellt und ihre rasse und Staatsangehoerigkeit angegeben werden. (NO-825, Ankl. Bew. 358, R. 1578). Die Fragebogen mussten von den Sachverstaendigen bearbeitet werden. (Kennecke, R. 1881). Die in der Euthanasie Taetigen erhielten niemals eine anweisung, dass nichtdeutsche Staatsbuorger von dem Programm ausgenommen werden sollten. (NO-817, Ankl. Bew. 368, R. 1595). Die Zeugen Kennecke (R. 1877, R. 1922) und Schmidt (R. 1860-1) sagten gleichfalls in diesem Sinne aus. Hugo Suchomel, Dr. jur., der hoechste beamte nach dem Minister im oesterreichischen Bundesministerium fuer Justiz, sagt in seiner eidesstattlichen Erklaerung, dass, als Brack als Vertreter des Angeklagten Brandt im Jahre 1942 im Justizministerium einen Vortrag ueber Euthanasie hielt, er die Kriegsverletzten und die Personen, die als Folge der Luftangriffe geistesgestoert worden waren, als die Personengruppe aufzaehlte, die von dem Programm ausgenommen waren. Auslaender und Juden wurden unter den Personengruppen, die ausgeschlossen waren, nicht erwaeht. (NO-2253, Ankl. Bew. , R.). Brack gibt zu, den Vortrag gehalten zu haben. (R. 7589).

Bereits im Jahre 1939 wurden Insassen von Irrenanstalten im besetzten Polen getoetet. (3816-PS, Ankl. Bew. 370, R. 1598). Im Herbst des Jahres 1940 wurden Geldmittel fuer die Evakuierung von 1558 Insassen von Irrenanstalten in Ostpreussen und ungefaehr 250 bis 300 geistesgestoerten Polen von dem Angeklagten Brack, der der verwaltungsmaessige Leiter des Euthanasieprogramms war, zur Verfuegung gestellt. Da diese Verschickungen von einem Sonderkommando des beruechtigten SD, das fuer besondere Aufgaben eingesetzt wurde, ausgefuehrt wurde, besteht kein Zweifel, dass

diese geistesgestörten Polen getötet wurden. (NO-2909, Ankl. Bew. 500, R. 7721; NO-2911, Ankl. Bew. 501, R. 7722). Im September 1941 wurde ein Befehl erlassen, dass die Insassen der Irrenanstalten in "ussland in der Besatzungszone der deutschen Armeegruppe "Nord" zu töten seien. (NO-1758, Ankl. Bew. 444, R. 2545).

Die Ostarbeiter waren auch davon betroffen. (NO-1430, Ankl. Bew. 429, R. 1950-1; NO-1436, Ankl. Bew. 430, R. 1941). Ostarbeiter, die zwangsweise nach Deutschland gebracht worden waren, nicht länger arbeiten konnten und als eine Belastung der Irrenanstalten in Deutschland angesehen wurden, wurden in einer Sammelanstalt vereinigt, und wenn sie nicht innerhalb 6 Wochen entlassen werden konnten, wurden sie unter dem Euthanasieprogramm vernichtet. (NO-891, Ankl. Bew. 414, R. 1779; NO-1116, Ankl. Bew. 415, R. 1781). Gesunde halbjüdische Kinder (NO-1427, Ankl. Bew. 431, R. 1952) und erwachsene Zigeuner (3882-PS, Ankl. Bew. 371, R. 1602) wurden gleichfalls getötet.

C. Ungenügende Untersuchung und mangelnde Aufsicht

Die Auswahl und Prüfung der Personen, die der Euthanasie unterworfen wurden, war in verbrecherischer Weise nachlässig und unzureichend.

Der Angeklagte Karl Brandt bezeugte, dass den Ärzten im Euthanasieprogramm ungeheure Verantwortlichkeit auferlegt wurde (R. 2425). Er hatte zusammen mit Bouhler Machtvollkommenheit über die Ärzte, die an dem Programm beteiligt waren. (Brandt, R. 2408). Er gab jedoch zu, dass er in den Irrenanstalten keine Beobachtungen anstellte oder Besuche machte. Er war nur einmal in der Irrenanstalt Bethel und besuchte eine Spezialklinik in Kassel. Er gab zu, dass er keine fachärztlichen Kenntnisse auf dem Gebiete der Psychiatrie habe. (R. 2470). Er, der Arzt unter den

beiden Personen, die von Hitler mit der Ausfuhrung der Euthanasie beauftragt waren - Bouhler war kein Arzt - ermachtigte die Aerzte, die Euthanasie anzuwenden. Ueber die aerztlichen Faehigkeiten dieser Maenner stellte er keine Untersuchungen an. (R. 2476). Von der Gesamtzahl der 10 bis 15 Aerzte, die nach seiner Zeugenaussage mit der Ausfuhrung der Euthanasie beauftragt waren, kennt er nicht einen einzigen Namen. (R. 2478-9). Brandt bezeugte, dass er nur eine der Vernichtungsstationen, Grafeneck, einmal im Jahre 1940 besuchte (R. 2480) und niemals in eine Beobachtungsstation kam. (R. 2481). Er besuchte jedoch im Winter 1939/1940 zusammen mit den Angeklagten Brack, Bouhler und Conti die Euthanasiestation Brandenburg, wo die erste Gaskammer eingerichtet wurde. Der Zweck dieses Besuches war, einen Probeversuch mit anzusehen, in dem vier geistesgestoerte Personen vergast wurden. (Brack, R. 7645-6).

Die Opfer der Euthanasie wurden zum Tode verurteilt von sogenannten Obergutachtern, die noch nicht einmal den Patienten gesehen hatten. Die Opfer wurden nur oberflaechlich auf Grund von Fragebogen geprueft. (NO-470, Ankl. Bew. 332, R. 1535-6). Pfannmueller, ein Gutachter, empfing vor dem 15. April 1941 nicht weniger als 159 Sendungen von Fragebogen, um ein Urteil ueber Leben und Tod zu faellen, von denen jede im Durchschnitt zwischen 200 und 300 Fragebogen enthielten. (NO-1129, Ankl. Bew. 355, R. 1572; NO-1130, Ankl. Bew. 355, R. 1572). Da seine Hauptbeschaeftigung die eines Leiters einer Irrenanstalt war, war seine Pruefung der Fragebogen nur eine Nebenbeschaeftigung. In einem Zeitraum von 18 Tagen faellte dieser selbe Gutachter Urteile ueber nicht weniger als 2.058 Fragebogen. (NO-1129, siehe oben, vgl. Pfannmueller, R. 7384).

Fragebogen ueber Patienten, die nur fuer die kurze Zeit von einem Monat in einer Anstalt gewesen waren, wurden ausgefuellt und bildeten die Unterlage fuer ein Urteil darueber, ob der betreffende Insasse getoetet werden sollte. (NO-825, Ankl. Bew. 358, R. 1577-8). Viele dieser Fragebogen waren in unzuellaenglicher Weise ausgefuellt, sodass es auf keinen Fall moeglich war, eine klare aertzliche Meinung zu bilden. Es wurde auch auf die Gutachter ein Druck ausgeuebt, um sie zu veranlassen, positive Gutachten abzugeben. (Mennecke, R. 1881). Ein einstimmiges Gutachten war nicht noetig zur Faellung eines positiven Urteils, das den Patienten zum Tode verurteilte. Die abweichende Meinung eines Gutachters genuegte nicht, um das Leben des Patienten zu retten. (Mennecke, R. 1907-8).

In einem Konzentrationslager wurden von dem Gutachter Mennecke an einem Nachmittag 105 Arier "untersucht". Die "Untersuchung" von 1200 Juden, die darin bestand, ihre Verhaftungsgruende aus den Akten in die Berichte zu uebertragen, nahm nur ein paar Tage in Anspruch. Mennecke selbst setzte in einem Brief an seine Frau das Wort "Untersuchung" in Anfuhrungszeichen. Unmoeglich konnte irgendeine Art Untersuchung auf den Geisteszustand an den Patienten ausgefuehrt werden. (Mennecke, R. 1892; NO-907, Ankl. Bew. 412, R. 1747). Diese Juden waren in der Tat geistig und koerperlich gesund. (Mennecke, R. 1893). Es war fuer Dr. Heyde und seine Aerztekommision, die im Konzentrationslager Dachau arbeitete, unmoeglich, in der kurzen Zeit, die sie dort zubrachten, die grosse Zahl der ausgewaehlten Insassen zu untersuchen. Die Untersuchung bestand lediglich in fluechtigem Studium der Personalkarten in Gegenwart der Haeftlinge. (NO-2799, siehe oben). Die Aerzte Schumann und Gorgass ueberprueften waehrend eines eintaegigen Besuchs im Konzentrationslager Buchenwald

ungefähr 100 Konzentrationslagerhäftlinge. (NO-3010, siehe oben).

Der Grad der Geistesgestoertheit war nicht der entscheidende Faktor bei der Entscheidung, ob die Insassen getoetet werden sollten oder nicht, sondern vielmehr ihre Brauchbarkeit zur Arbeit. Die Art ihrer Beschaeftigung, ihr Arbeitswert, wenn moeglich im Vergleich mit der Durchschnittsleistung gesunder Personen, mussten in den Fragebogen sorgfaeltig ausgefuellt werden. (1696-PS, Ankl. Bew. 357, R. 1575). Wertvolle Arbeiter wurden nicht zu den Euthanasiestationen geschickt. (3865-PS, Ankl. Bew. 365, R. 1589). Patienten, die Arteriosclerose, Tuberkulose, Krebs und andere arbeitsunfaehigmachende Krankheiten hatten, wurden in das Programm einbezogen. (3896-PS, Ankl. Bew. 372, R. 1608). "Nutzlose Esser" wurden dem Hungertode preisgegeben. (3816-PS, Ankl. Bew. 370, R. 1599; 1600; NO-823, Ankl. Bew. 399, R. 1697). Personen, die fuer den Staat keinen Wert mehr hatten, wurden als "unnuetze Esser" angesehen. Es wurde hervor-
gehoben, dass waehrend des Krieges gesunde Personen ihr Leben hergeben muessten, waehrend diese schwerkranken Leute am Leben bleiben und, wenn nicht die Euthanasie ausgefuehrt wuerde, noch laenger am Leben bleiben wuerden. Ausserdem wurde noch gesagt, dass der Mangel an Nahrungsmitteln und Pflegepersonal die Ausrottung dieser Leute rechtfertige. (Wennecke, R. 1906). Die Konzentrationslagerhaeftlinge wurden auf ihre Arbeitsfaehigkeit und politische Zuerlaessigkeit hin geprueft und wurden dementsprechend fuer die Euthanasie ausgewaehlt. (NO-2799, siehe oben). Fragebogen ueber Konzentrationslagerinsassen, die nicht geistesgestoert waren, wurden ausgefuellt. (NO-3010, siehe oben). Vor dem 27. April 1943 umfasste die Aktion 14 f 13 die Toetung nicht nur von geistesgestoerten Personen, sondern auch von Personen, die an Tuberkulose litten, von Bettlaegerigen und von anderen fuer koerperliche Arbeit untauglichen Personen. (NO-1007, Ankl. Bew. 413, R. 1753). Nur Insassen, die nicht mehr arbeitsfaehig waren,

sollten vor die Prüfungskommission gebracht werden. (NO-1151, Ankl. Bew. 411, R. 1744).

Im Falle der Kindertötungen fand keine vorhergehende Beratung mit den Eltern oder Angehörigen statt. (3864-PS, Ankl. Bew. 367, R. 1593). Der Entlastungszeuge Pfannmueller sagte aus, dass er, nachdem er die Berechtigung erhalten hatte, das betreffende Kind zu töten, die Verwandten einlud, das Kind zu besuchen, weil es krank sei. Er sagte den Eltern oder Vormunden jedoch nicht, dass er das Kind töten werde, da dies ein Staatsgeheimnis war. (Pfannmueller, R. 4394). Aus den von dem Angeklagten Brack vorgelegten Dokumenten geht klar hervor, dass die Eltern ueber den Zweck der Verbringung der Kinder in Anstalten, wo sie getötet werden sollten, getäuscht wurden. Es oblag den ärztlichen Beamten, die Eltern zu veranlassen, ihre Kinder in solche Anstalten zu schicken. Um das fertig zu bringen, wurde den Eltern gesagt, dass bei einzelnen Krankheiten eine Möglichkeit bestehende, durch Behandlung gewisse Erfolge zu erzielen. (Brack Dok. 52, Brack Bew. 43, R. 7678, vgl. Brack, R. 7717). Den Eltern wurde gesagt, dass das Kind in solchen Anstalten die beste Pflege empfangen wuerde und dass alles ordenkliche in bezug auf moderne Heilmethoden getan worden wuerde. (Brack Dok. 51, Brack Bew. 42, R. 7678). Aus diesen Dokumenten geht klar hervor, dass die Eltern und Angehörigen im Falle der Tötung von Kindern nicht nur nicht um ihre Einwilligung gefragt wurden, sondern dass sie auch noch getäuscht wurden, um die Verlegung in eine Euthanasie-Anstalt zu ermöglichen. Ein Brief vom Reichsausschuss zur wissenschaftlichen Erforschung von erb- und anlagebedingten schweren Leiden an die Landesheilanstalt Eichberg zeigt offensichtlich, dass in Faellen von Euthanasie an Kindern die Einwilligung der Eltern . . .

nicht nachgesucht wurde. (NO-890, Ankl. Bew. 443, R. 2540-1). Dieses Beweismaterial wird durch die eidesstattliche Erklärung von Dr. Suchomel erhärtet. (NO-2253, siehe oben). Der Angeklagte Brack sagte aus, dass die Einwilligung der Eltern bei der Tötung von Kindern eine unbedingte Voraussetzung war. Die besetzten Ärzte, die die Vorkehrungen für die Verschickung der Kinder nach den Tötungsstationen trafen, hatten angeblich die Aufgabe, die Eltern zu benachrichtigen und ihre Einwilligung einzuholen. Diese Erklärung steht im Widerspruch zu Bracks eigenen Dokumenten, die klar zeigen, was den Eltern in Wirklichkeit gesagt wurde, und auch die Behandlung des Programmes als ein Staatsgeheimnis aufzeigen. Die Beweisaufnahme hat ferner gezeigt, dass Pfannmueller selbst einer der Ärzte war, die zufolge der Verordnung des Innenministers vom 18. August 1939 missgestaltete und minderwertige Kinder melden mussten. (NO-3355, Ankl. Bew. , R.). Er selbst bezeugte, dass er die Eltern über das Schicksal, das ihre Kinder erwartete, niemals unterrichtet habe. (Siehe oben). Brandt gab zu, dass bei der Tötung erwachsener Geisteskranker, die Einwilligung der Angehörigen nicht erforderlich war, und ihre Ansicht nicht gehört wurde. (R. 2427-8).

Es ist eine Unzahl von Beweisen dafür vorhanden, dass die deutsche Öffentlichkeit über die Euthanasie und die Art ihrer Ausführung entsetzt war. Ein Polizeibericht erklärte:

"Es soll hierbei zu den wildesten Szenen gekommen sein, weil ein Teil dieser Menschen nicht freiwillig in den Omnibus einstiegen und daher mit Gewalt des Begleitpersonals dorthin verbracht wurden! Es handelt sich hier um Leute, die blöde- und schwachsinnig sind und sonst noch weitere epileptische Krankheiten haben sollen. - und für deren Unterhalt bisher ganz oder zum grossen Teil überwiegend der Staat und die sonstigen Körperschaften des öffentlichen Lebens aufkommen mussten. ... Es soll sogar ein Teil dieser Leute mit einer Behauptung soweit gegangen sein, und die etwa folgendermassen verbreitet wurde: "Der heutige Staat muss nun einmal schlecht bestellt sein, sonst könnte es nicht

vorkommen, dass man diese armen Menschen einfach zum Tod befoerdert, damit man die Mittel, die bisher fuer den Unterhalt dieser Menschen zur Verfuegung standen, nunmehr zur Kriegsfuehrung frei macht". (D-906, Ankl. Bew. 376, R. 1619-21).

D. Allgemeine Vernichtung der Juden

Am Euthanasieprogramm beteiligte Personen nahmen auch an der Vernichtung der Juden im Osten von ungefaehr 1941 bis zur Befreiung der Ostgebiete teil. Zu einer gewissen Zeit, in der zweiten Haelfte des Jahres 1941 wurde ein Teil der Personen, die bis dahin das Euthanasieprogramm in Deutschland ausfuehrten, nach Lublin geschickt und dem SS-Brigadefuehrer Globocnik zur Verfuegung gestellt, um bei der Massenvernichtung der Juden, die damals in den hoeheren Kreisen der NSDAP allgemein bekannt war, zu helfen. Unter den Aerzten, die bei der Vernichtung der Juden mithalfen, waren Dr. Eberle und Schumann, die beide vorher bei dem Euthanasieprogramm in Deutschland mitgearbeitet hatten. All dies gab Brack in seiner eidesstattlichen Erklaerung in der Voruntersuchung zu:

"Der Befehl, diese Leute nach dem Osten abzustellen, konnte nur von Himmler an Dr. Brandt erteilt worden sein, eventuell durch Bouhler." (NO-426, Ankl. Bew. 160, R. 531).

Die Verbindung zwischen der "Stiftung" (gemeinnuetzige Stiftung fuer Anstaltspflege) und dem Vernichtungslager in Lublin war auch den niederen Beamten der Euthanasiestationen bekannt. (NO-470, Ankl. Bew. 332, R. 1537). Der Zeuge Gorgass erklarte in seiner eidesstattlichen Erklaerung, dass Polizeihauptmann Wirth ihm im Spaetsommer 1941 erzaehte, er sei von der Stiftung fuer Anstaltspflege - das war einer der Decknamen, unter denen das Euthanasieprogramm arbeitete - an eine Euthanasie-Anstalt im Bezirk Lublin versetzt worden. (NO-3010, siehe oben). Der SS-Richter, Dr. Morgen, der

das juedische Vernichtungsprogramm in Lublin untersuchte, bezeugte vor dem Internationalen Militaergerichtshof, dass Wirth, der vorher die Aufgabe ausgefuehrt hatte, die unheilbar Irrsinnigen aus dem Lager zu räumen, ein Spezialist in der Massenvernichtung von Menschen war. Die Dienststelle, von der Wirth seine Befehle erhielt, war Berlin, Tiergartenstrasse, und unter den Leuten, die mit dieser Aktion in Verbindung standen, war Blankenburg. (NO-2614, Ankl. Bew. 504, R. 7735-7737). Brack gab zu, dass Wirth Beamter der Euthanasiestation Brandenburg war. (Brack, R. 7733). Brandt besuchte Brandenburg im Winter des Jahres 1939-40. (Brack, R. 7645-6). Die Zentralstelle fuer das Euthanasieprogramm wurde in der Tiergartenstrasse 4 eingerichtet, und Blankenburg war Bracks Stellvertreter in dem Euthanasieprogramm. (Brack, R. 7563, R. 7707).

Der Angeklagte Brack berichtete an Himmler ueber diese Arbeiten am 23. Juni 1942 wie folgt:

"Ich habe den Brigadefuehrer Globocnik auf Anweisung von Reichsleiter Buehler fuer die Durchfuehrung seiner Sonderaufgabe schon vor laengerer Zeit einen Teil meiner Maenner zur Verfuegung gestellt. Auf Grund einer erneuten Bitte von ihm habe ich nunmehr weiteres Personal abgestellt. Bei dieser Gelegenheit vertrat Brigadefuehrer Globocnik die Auffassung, die ganze Judenaktion so schnell wie nur irgend moeglich durchzufuehren, damit man nicht eines Tages mitten drin steckenbliebe, wenn irgendwelche Schwierigkeiten ein Abstoppen der Aktion notwendig machen. Sie selbst, Reichsfuehrer, haben mir gegenueber seinerzeit schon die Meinung geaussert, dass man schon aus Gruenden der Tarnung so schnell wie moeglich arbeiten muesse." (NO-205, Ankl. Bew. 163, R. 536).

Die eidesstattliche Erklaerung von Kurt Gerstein, die auch Wirth erwaeht, gibt eine lebhaft Beschreibung der schoecklichen Art, in der die Opfer auf Befehl Globocniks zu Tausenden getoetet wurden. (1553-PS, Ankl. Bew. 428, R. 1799-1807).

Im Oktober 1941 uebermittelte Brack, der der verwaltungsmaessige Leiter des Euthanasieprogramms war, Plaene, wonach Juden, die nicht arbeiten konnten, durch Gas vernichtet werden sollten. Er erklaerte seine Bereitwilligkeit, einige seiner Gehilfen, und insbesondere seinen Chemiker Kallmeyer, nach dem Osten zu schicken, wo die noetige Vergasungsapparatur leicht fabriziert werden koenne. Eichmann, den Hitler mit der Vernichtung der Juden beauftragt hatte, war mit diesen Plaenen einverstanden. Demgemass bestanden "keine Bedenken Juden, die nicht arbeiten konnten, nach der Brackschen Heilmethode aus dem Weg zu raeumen". (NO-365, Ankl. Bew. 507, R. 7744). Kallmeyer, der mit der Herstellung der Vergasungsapparatur und -einrichtung beauftragt war (siehe oben), war fuer diese Aufgabe im Euthanasieprogramm ausgebildet worden. Er war vorher fuer das richtige Funktionieren der Gaskammern in den verschiedenen Euthanasie-Anstalten verantwortlich gewesen. (Brack, R. 7743). Nach Eichmanns eigener Schaeztung wurden vier Millionen Juden in Vernichtungsanstalten getoetet. (NO-2737, Ankl. Bew. 505, R. 7740).

E. Legalitaet

Das oben angefuhrte Beweismaterial laesst klar erkennen, dass das Euthanasieprogramm nur als Massenmord bezeichnet werden kann. Dieser Gerichtshof ist nicht dazu berufen, mit juristischer Spitzfindigkeit zu bestimmen, was ein Staat im bezug auf Euthanasie durch Gesetz rechtmassig regeln kann. Die Anklagebehoerde ersucht lediglich, dass dieser Gerichtshof, wie andere Gerichtshoeefe bereits getan haben, feststellen moege, dass im dritten Reich kein gueltiges Gesetz bestand, das die Euthanasie gestattete und dass die Hinrichtung von Personen unter dem Deckmantel der Euthanasie mit dem stillschweigenden Einverstaendnis und der Hilfe bestimmter Angeklagter auf dieser Anklagebank das Verbrechen des Mordes darstellte - ein Kriegsverbrechen und ein Verbrechen gegen die Menschlichkeit.

Die erste und hervorragendste Autoritaet ueber den rechtlichen Charakter der

Euthanasie, wie sie unter den Nationalsozialisten gehandhabt wurde, ist in dem Urteil des Internationalen Militaergerichtshofes enthalten. Es heisst hier:

"weiterhin sind auch die Massnahmen zu erwahnen, die schon im Sommer des Jahres 1940 in Deutschland eingefuehrt waren und auf Grund derer alle alten, geistesgestoerten und alle mit unheilbaren Krankheiten behafteten Menschen, "nutzlose Esser", in besondere Anstalten eingeliefert und getoetet wurden, waehrend man Verwandten mitteilte, dass sie eines natuerlichen Todes gestorben seien. Opfer waren nicht nur deutsche Staatsbuenger, sondern auch auslaendische Arbeiter, die nicht mehr imstande waren, ihre Arbeit zu verrichten und infolgedessen fuer die deutsche Kriegsmaschine unbrauchbar geworden waren. Es wurde geschaezt, dass mindestens 275.000 Menschen auf diesem Wege in Erholungsheimen, Krankenhaeusern und Irrenanstalten, die dem Angeklagten Frick in seiner Eigenschaft als Innenminister unterstanden, getoetet wurden. Es war voellig unmoeglich festzustellen, wieviele Fremdarbeiter in dieser Gesamtzahl enthalten sind." (R. 1514, 1515; Seiten 16916-7, offizieller englischer Text des Verhandlungsprotokolls des I.M.T.).

"Waehrend des Krieges unterstanden Frick Privatkliniken, Krankenhaeuser und Irrenhaeuser, in welchen der Gnadentod zur Anwendung kam, der an einer anderen Stelle dieses Urteils beschrieben ist. Es war ihm bekannt, dass geistig Defekte, Kranke und altersschwache Personen, "nutzlose Esser", systematisch umgebracht wurden. Beschwerden ueber diese Morde erreichten ihn, jedoch tat er nichts um ihnen Einhalt zu gebieten. In einem Bericht der tschechoslowakischen Kommission fuer Kriegsverbrechen wird geschaezt, dass 275.000 geistes- und altersschwache Personen, fuer deren Wohl er verantwortlich war, den Morden zum Opfer fielen." (R. 1515; Seite 17007, offizieller englischer Text des Verhandlungsprotokolls des I.M.T.).

Diese Urteilsfindung machte keinen Unterschied zwischen den unter diesem Programm hingerichteten deutschen und nichtdeutschen Staatsangehoerigen. Diese Hinrichtungen werden mit dem Worte "Mordtaten" bezeichnet und stellen Kriegsverbrechen und Verbrechen gegen die Menschlichkeit nach dem Statut und dem Kontrollratsgesetz Nr. 10 dar. Dies war eines der Hauptverbrechen, das zu dem Schuldspruch und Todesurteil gegen Frick fuehrte.

Die Ausfuehrungen des Stellvertretenden Gerichtsherrn fuer die amerikanischen Besatzungsgebiete in dem Prozess der Vereinigten Staaten gegen Klein, Wahlmann und Genossen, der in Wiesbaden in Deutschland vom 8. bis 15. Oktober 1945 abgehalten wurde, ist ein klarer Praezedensfall dafuer, dass die Hinrichtung nichtdeutscher Staatsangehoeriger gemaess dem Euthanasieprogramm ein Verbrechen war. (NO-1116, Ankl. Bew. 415, R. 1781). Die Angeklagten dort waren beschuldigt, einige 400/polnischer Personen

und russischer Staatsangehoerigkeit, die angeblich an unheilbarer Tuberkulose litten, zwischen Juni 1944 und April 1945 in der Euthanasie-Anstalt Hadamar hingerichtet zu haben. Sie waren nicht der Ermordung deutscher Staatsangehoeriger angeklagt, und diese Frage wurde nicht erörtert. Nachdem die Tatsache, dass auslaendische Arbeiter zur Arbeit in Deutschland zwangsweise rekrutiert wurden, einer gerichtlichen Muerdigung unterzogen worden war, beschloss die Revisionsbehoerde, dass die in Frage kommenden Toetungen eine Verletzung der Internationalen Kriegsgesetze und des Artikels 46 der Haager Konvention waren. Drei von den sieben angeklagten wurden zum Tode verurteilt.

Nach deutschem Recht war die Euthanasie nichts anderes als Mord. Paragraph 211 des deutschen Strafgesetzbuches in seiner alten Fassung lautete:

"Wer vorsatzlich einen Menschen toetet, wird, wenn er die Toetung mit Ueberlegung ausgefuehrt hat, mit dem Tode bestraft."

In der neuen Fassung, die vom 4. September 1941 an in Kraft war, lautete der betreffende Abschnitt:

"Der Moerder wird mit dem Tode bestraft.

Moerder ist, wer

aus Mordlust, zur Befriedigung des Geschlechtstriebes, aus Habgier oder sonst aus niedrigen Beweggruenden, heimtueckisch oder grausam oder mit gemeingefaehrlichen Mitteln oder um eine andere Straftat zu ermoeeglichen oder zu verdecken, einen Menschen toetet.

Ist in besonderen Ausnahmefaelen die Todesstrafe nicht angemessen, so ist die Strafe lebenslanges Zuchthaus." (NO-705, Dok. Buch 16, Seite 122).

Betreffs fachlichen Kommentars ueber die Rechtlichkeit der Euthanasie siehe NO-708, Dok. Buch 16, Seite 134 und NO-706, ibid, Seite 123.

Der Entlastungszeuge Hans Lammers, ein deutscher juristischer Sachverstaendiger, bezeugte, dass der Hitlerbrief an Bouhler und Brandt kein Gesetz war und dass offizielle Gesetzgebung notwendig war, um die Euthanasie zu legalisieren. (R. 2672, 2679). Der Reichsjustizminister Guertner schrieb am 24. Juli 1940 Lammers einen Brief und teilte ihm mit, dass, da der Fuehrer sich geweigert habe, ein Gesetz zu erlassen, die

geheime Vernichtung geisteskranker Personen sofort aufhoeren muesse. (NO-832, Ankl. Bew. 393, R. 1679). Eine Abschrift dieses Briefes wurde am 27. Juli 1940 an Bouhler geschickt. (NO-833, Ankl. Bew. 394, R. 1679, 1680).

Waehrend Bracks Vortrag im Justizministerium, der oben in Unterabschnitt B erwaehnt ist, wurden die anwesenden juristischen Autoritaeten ueber den Umfang des Programms vollkommen falsch unterrichtet. Aus den Bemerkungen des Vortragenden empfangen sie den Eindruck, dass nur ein sehr beschraenkter Personenkreis, hoechstens mehrere hundert in ganz Deutschland, Oesterreich und dem Protektorat Boehmen und Maehren davon betroffen wurden. Die dort hervorgerufene Meinung war, dass nur sehr gefaehrliche Patienten und Tobsuechtige, die sich selbst verletzen koennten, dem Programm unterworfen wurden. (NO-2253, oben). Dies geschah offensichtlich, um die Bedenken der anwesenden Personen zu beschwichtigen. Brack konnte oder wollte, als er befragt wurde, ob er waehrend des Vortrags eine ungefaehre Zahl von Personen angegeben habe, die unter die Euthanasie fallen wurden, keine Antwort geben. Im Gegensatz zu dem waehrend der Konferenz im Justizministerium geschaffenen Eindruck geben die Angeklagten Brandt und Brack jetzt zu, dass allein in Deutschland und Oesterreich unter dem Euthanasieprogramm 50 - 60.000 Leute getoetet wurden. (Brandt, R. 2465; Brack, R. 7610).

Seit dem Kriegsende haben deutsche und oesterreichische Gerichte wiederholt fuer Recht erkannt, dass die Toetung von Personen irgendwelcher Nationalitaet unter dem Deckmantel der Euthanasie unter Verstoss gegen das deutsche Strafgesetzbuch erfolgte und als Mord zu bestrafen sei. Die Zeugen Schmidt und Mennecke, die vor diesem Tribunal als Zeugen aussagten, waren selbst von einem deutschen Gericht wegen Teilnahme am Euthanasieprogramm schuldig befunden und zu lebenslaenglichem Zuchthaus bzw. zum Tode verurteilt worden.

Von dem Landeskriminalgericht in Wien wurde im Juli 1946 Dr. Ernst Illing zum Tode durch den Strang und Dr. Marianne Tuerk zu 10 Jahren Zuchthaus verurteilt, weil sie psychopathische Kinder oder Kinder, die an Erbkrankheiten litten, getoetet hatten (die sogenannte Euthanasie). In der Entscheidung wird ausgefuehrt, dass Dr. Illing am 1. Juli 1942 seinen Posten uebernahm mit der Anweisung, die Ausfuehrung der vom Reichsausschuss gestellten Aufgaben zu uebernehmen. Beide Angeklagte gaben zu, dass sie am Tode von ungefaehr 2.000 Personen in dem Zeitraum zwischen dem 1. Juli 1942 und April 1945 teil hatten. Der Angeklagte Illing bezeugte, dass er von Hefelmann, von der Kanzlei des Fuehrers bestellt wurde und dass ihm ein von Adolf Hitler unterzeichneter, mit Schreibmaschine geschriebener Bogen zum lesen gegeben wurde, demgemass der angeklagte Brandt verwaltungsmaessige anweisungen fuer das schmerzlose Toeten (Euthanasie) unheilbarer geistesgestoerter Kinder in Kraft zu setzen und auszuarbeiten hatten. Nach Pruefen und Entscheidung durch einen wissenschaftlichen aerztlichen Ausschuss wurde Dr. Brandt oder der von ihm bezeichnete Stellvertreter in jedem Einzelfall den Befehl erteilen. Brandt war Hitler persoenlich verantwortlich. Die Feststellungen besagten damals, dass solch ein Befehl Hitlers niemals Gesetzeskraft haben wurde:

"Es ist zwar richtig, dass Adolf Hitler durch Beschluss des "gross-deutschen Reichstages" vom 26.6.1942 ermächtigt wurde, alles zu tun, "was zur Erringung des Sieges dient oder dazu beitraegt" insbesondere wurde ihm das Recht erteilt, noetigenfalls jeden Deutschen mit allen ihm geeignet erscheinenden Mitteln zur Erfuellung seiner Pflichten anzuhalten und bei Verletzung dieser Pflichten, ohne Ruecksicht auf sogenannte wohlverworbene Rechte, mit der ihm gebuehrenden Suetne zu belogen, ihn im besonderen ohne Einleitung vorgeschriebener Verfahren aus seinem Amte, aus seinem Rang und seiner Stellung zu entfernen.

"Abgesehen davon, dass sich diese Ermächtigung an den Regierungschef nach der ganzen Formulierung nur auf militaerische Dinge beziehen sollte, ist die Uebertragung einer derartigen Befehlsgewalt an den Chef der Regierung

"In der Geschichte der letzten Jahrzehnte nichts Neues. So hat beispielsweise der Wiener Gemeinderat am 22.9.1914 dem Buergermeister die Ermächtigung erteilt, alle in der Verwaltung notwendigen Anordnungen und Verfaegungen unter eigener Verantwortung zu treffen, da infolge des Kriegszustandes an eine regelmässige Taetigkeit des Gemeinderates nicht gedacht werden konnte. (Richard Kralik, Geschichte der Stadt Wien, zweite Auflage, Seite 524).

"Nach Ansicht des Gerichtshofes konnte daher ein derartiger Befehl Adolf Hitlers - ausser in militaerischen Belangen - niemals Gesetzeskraft haben. Das Problem der Euthanasie ist eben so alt, wie die medizinische Wissenschaft ueberhaupt. Gerade in den letzten Jahrzehnten hat dieses Problem nahezu saemtliche Kulturstaaten beschaeftigt, wobei Aerzte und Juristen darin uebereinstimmen, dass die Loesung dieses Problems nur der Gesetzgebung ueberlassen werden kann.

"Im uebrigen scheint sich ja der Erstangeklagte der Rechtswidrigkeit seiner Handlungsweise bewusst gewesen zu sein, sonst haette er bei Uebernahme der Leitung der Klinik seine Mitarbeiter einschliesslich des Pflegepersonals nicht zur Geheimhaltung verpflichtet. Das gleiche muss fuer den damaligen Reichsausschuss in Berlin gelten, sonst waere im Januar 1945 nicht die Weisung ergangen, die gesamte Korrespondenz, die zwischen Wien und dem Reichsausschuss in Berlin gefuehrt worden war, zu vernichten."

.....

"Was aber die rechtliche Seite dieses sogenannten Befehls, unter welchem Dr. Illing gestanden sein will, anlangt, so ist folgendes zu bemerken: Es gibt keinen Befehl zur Veruebung einer strafbaren Handlung. Das ergibt sich einerseits aus dem allgemeinen Sittengesetz, welches ein Teil der Rechtsordnung ist, andererseits aus der Heranziehung anderer Gesetzbestimmungen. So bestimmt beispielsweise Paragraph 47 des deutschen Militaerstrafgesetzes folgendes: "Wird durch die Ausfuehrung eines Befehls in Dienstsachen ein Strafgesetz verletzt, so ist dafuer der befehlende Vorgesetzte allein verantwortlich. Es trifft jedoch den gehorchenden Untergebenen die Strafe des Teilnehmers, wenn ihm bekannt gewesen ist, dass der Befehl des Vorgesetzten eine Handlung betraf, welche ein allgemeines oder militaerisches Verbrechen oder Vorgehen bezweckte..." Aehnliche Bestimmungen sind in den Paragraphen 535 und 560 der Sonderbestimmung fuer aktive Heeresangehoerige (Gesetz vom 15.7.1920 StGBL. Nr. 323) enthalten.

"Der Angeklagte Illing kann sich also nicht darauf ausreden, dass er unter dem Zwange eines "mit Gesetzeskraft" ausgestatteten Befehles gestanden sei, weil dieser Befehl eben keine Gesetzeskraft hatte, ganz abgesehen davon, dass ein ergangener Befehl nicht entschuldigt (Paragraphen 1 und 5 KVG).

"Wenn aber die beiden Angeklagten ihre Handlungsweise damit begruendet haben, dass sie die Euthanasierung immer nur dann angeordnet haben, um die kranken Kinder von ihren Leiden zu erloesen, wobei die Angeklagten dieses Motiv auch fuer den Reichsausschuss in Anspruch genommen haben, so ist folgendes zu bemerken:

"Nach dem Vorleben des Erstangeklagten, insbesondere im Hinblick auf seine wissenschaftliche Erforschung der Erbkrankheiten ist der Gerichtshof zur Ueberzeugung gelangt, dass die Euthanasierung der Kinder auf gleiche Linie zu stellen ist mit der Tötung erwachsener Geisteskranker und der Ausrottung der Juden. Hierbei sei an einen Ausspruch Hitlers erinnert, der den Lehrbüchern ueber Sterilisierung vorangestellt war:

"Was nicht guter Rasse ist auf dieser Welt, ist Spreu". Der Erstangeklagte Dr. Illing hat bei seiner ersten Einvernahme vor dem russischen Kapitaen auch ohne weiteres zugegeben, nur jene Kinder euthanasiert zu haben, die "ueberhaupt keinen Nutzen fuer das deutsche Volk hatten." (Bl. 21 15), das ist mit anderen Worten das nationalsozialistische Schlagwort von der "Reinerhaltung des deutschen Volkes". Dass sich aber der Reichsausschuss bei seinen Anordnungen zur "Behandlung" von Gefuehlen des Mitleides hatte leiten lassen, ist absolut abwegig, vielmehr genuegt der Hinweis darauf, dass Mitleid im dritten Reich ueberhaupt fremd war."/

.....

"Zusammenfassend ist daher festzustellen, dass die Tat der beiden Angeklagten nicht nur gegen das allgemeine Strafgesetz verstossen hat, sondern auch gegen das allgemeine Sittengesetz und die aerztliche Ethik. Aufgabe des Arztes ist es naemlich zu heilen, dagegen nicht, zu toeten. Nicht zuletzt sei auch darauf hingewiesen, dass gerade diese Kinder, um die es sich hier handelt, schon an und fuer sich unter dem besonderen Schutz der Gesetze stehen (Paragraph 21 abGB)." (NO-317, Dok. Buch 16, S. 64).

Das Schwurgericht in Berlin fand in der Sitzung vom 25. Maerz 1946 die Angeklagten Hilde Wernicke und Helene Wiczorek des Mordes schuldig und verurteilte sie zum Tode. Beide arbeiteten am Sanatorium fuer Geisteskranken in Meseritz-Obrawalde. Beide Angeklagten mussten Bescheinigungen unterschreiben, in denen sie erklaerten, dass sie sich verpflichteten, nichts ueber den Inhalt des Erlasses und die muendlichen Anweisungen, alle unheilbar geisteskranken Personen zu toeten, verlauten zu lassen. Die Auswahl der Personen, die getoetet werden sollten, wurde in der Weise ausgeuehrt, dass die Angeklagte Wernicke die Krankengeschichten durchlas und die betreffenden Patienten "ansah".

Ungefähr 600 Personen wurden zwischen den Jahren 1943 und 1944 durch Scopolamin und Morphiumeinspritzung getötet. Auch einige Kinder wurden getötet. Das Schwurgericht befand weiterhin:

"Ein Recht zur Sterbehilfe ist bisher gesetzlich nicht anerkannt. Aber selbst, wenn die Zulässigkeit der Sterbehilfe aus Gründen der Menschlichkeit im Einzelfall nicht grundsätzlich sollte ausgeschlossen werden dürfen, so könnte eine solche ärztliche "Hilfe" nur ganz ausnahmsweise zugelassen werden, so etwa zum Beispiele dann, wenn es sich darum handelt, ob eine unerträglich schmerzhaft, sicherlich noch länger andauernde Krankheit durch eine schmerzlose Todesursache verdrängt werden soll. Einer näheren Erörterung dieser viel umstrittenen Frage bedurfte es jedoch in dem vorliegenden Fall nicht. Denn die Angeklagte Vernicke hat nach ihrem eigenen Vorbringen ihre Auswahl überhaupt nicht aus menschlichen Beweggründen getroffen. Die Personen, die in der ihr zur Entscheidung vorgelegten Listen jeweils namentlich bezeichnet waren, galten vielmehr von vornherein als Geisteskranke, die grundsätzlich zur Vernichtung gebracht werden sollten." (NO-445, Dok. Buch 16, S. 86).

Das Berufungsgericht verwarf in der gleichen Strafsache die Berufungen beider Angeklagten. Die folgenden Zitate aus den Urteilsgründen dürften von Interesse sein:

"Im Frühjahr 1943 eröffnete der Verwaltungsdirektor der Anstalt, Grabowski, den Angeklagten, es sei jetzt ein nachträglich von ihm auch als Führerbefehl bezeichnetes Gesetz erlassen worden, in welchem angeordnet sei, dass alle unheilbar Geisteskranken zur Verkürzung ihrer Leiden zu töten seien, und hob dabei hervor: "Gesetze müssen befolgt werden. Sie müssen ihre Pflicht tun."

.....

"Die gegen die Anwendung des materiellen Rechts gerichtete Rüge gipfelt darin, dass die Angeklagten nicht mit dem Bewusstsein der Rechtswidrigkeit behandelt hätten."

"Diese Rüge konnte ebenfalls keinen Erfolg haben."

"Ein Gesetz, das die Tötung der unheilbaren und nicht mehr arbeitsfähigen Geisteskranken anordnete, hat nicht bestanden. Das ergibt sich auch aus der von dem Senat vorgelegten eingeholten Auskunft des amerikanischen Anklaggers im Nürnberger Prozess, Dr. Kemper, der dort die auch auf die Tötung Geisteskranker gestützte Anklage gegen Frick vertreten hat."

Das Gesetz, von dem der Verwaltungsdirektor Grabowski zu den Angeklagten gesprochen hat, war schon deshalb kein Gesetz, weil es nicht nur nicht verkündet, sondern seine Geheimhaltung denen, die von ihm Kenntnis erhielten, sogar unter Androhung von Zuchthaus - der Todesstrafe auferlegt worden ist. Die Angeklagten haben aber auch garnicht nach diesem angeblichen Gesetz gehandelt. Denn es ordnete nach Mitteilung von Grabowski an, dass Geisteskranke zur Verkürzung ihrer Leiden zu töten seien. Nach den Feststellungen des Schwurgerichts war aber für die von den Angeklagten erwirkten Tötungen nicht die Verkürzung der Leiden Kranker, sondern abgesehen von der Unheilbarkeit der Erkrankung, die Arbeitsunfähigkeit der Kranken entscheidend.

.....

In diesen Feststellungen scheitert auch der Angriff der Revision, dass das Schwurgericht den Angeklagten nicht ein Handeln aus Gründen der Euthanasie als Rechtfertigungsgrund zugestanden habe. Die Revision verwendet dabei den Begriff der Euthanasie in einem weiteren, auch die Vernichtung lebensunwerten Lebens umfassenden Sinne. Im eigentlichen Sinne bedeutet Euthanasie Sterbehilfe. Den dem Tode verfallenden, schwer leidenden Kranken wird vom Arzt mit sanfter Hand über die Schwelle des Todes hinweggeholfen. Nicht einmal in diesem engeren Sinne ist, wie das Schwurgericht zutreffend ausführt, die Euthanasie als Rechtfertigungsgrund fuer eine Tötung bisher gesetzlich anerkannt, geschweige denn in dem weiteren Sinne der Vernichtung lebensunwerten Lebens. Die Vernichtung des Lebens unheilbarer Geisteskranker, weil sie nicht mehr arbeitsfähig sind, verstoesst gegen das allgemein anerkannte Sittengesetz. Der Versuch der Revision, diese Vernichtung als Ergebnis schon laenger bestehender ernsthafter Bestrebungen in dieser Richtung und daher nicht erst aus nationalsozialistischen Gedankengängen entsprungen zu rechtfertigen, ist verfehlt. In der auch von der Revision als auf diesem Gebiet grundlegend angeführten, 1920 erschienenen Schrift von Binding und Hoche, eines Juristen und eines Psychiaters von internationalem Ruf, ueber die Freigabe der Vernichtung lebensunwerten Lebens und nicht etwa die Vernichtung des Lebens aller unheilbaren, nicht mehr arbeitsfähigen Geisteskranken, heisst es, sondern nur die des Lebens der unheilbaren Bloedsinnigen in einem gesetzlich geordneten, mit allen denkbaren Garantien ausgestatteten Verfahren angestrebt, weil diese Bloedsinnigen weder den Willen, zu leben, noch zu sterben haben, und es bei ihnen keine beachtliche Einwilligung in dieser Richtung geben koenne, diese andererseits auf keinen Lebenswillen stoesse, der gebrochen werden muesste.

Die Verfasser sprechen dagegen von der vollen Achtung des Lebenswillens aller, auch der kranken und gequältesten und nutzlosesten Menschen. Es ist allgemein bekannt, dass z.B. die grosse Gruppe der schizophrenen Geisteskranken zahlreiche Kranke umfasst, bei denen fuer den Nichtmediziner der Zustand unheilbarer Krankheit gerichtlich immer zu erkennen ist und von einem fehlenden Lebenswillen keine Rede sein kann. Aber nicht einmal in der von Binding und Hoche vertretenen Einschränkung auf unheilbare Idioten ist ihr Vorschlag etwa allgemein gebilligt worden. Der auch von der Revision angeführte frühere Oberreichsanwalt Ebermayer äussert z.B. in seiner 1920 erschienenen Schrift "Der Arzt in Recht" schwerwiegende Bedenken und schliesst mit der fuer den damaligen Stand dieser Frage, wenige Jahre vor der sog. Machtergreifung, bezeichnenden Ausführung, dass sie ja nicht aktuell sei und es vorerst kaum werden könne.

Da die Vernichtung des Lebens der unheilbaren Geisteskranken unter dem Gesichtspunkt ihrer dauernden völligen Arbeitsunfähigkeit gegen das allgemein anerkannte Sittengesetz verstoesst und auch damals versties, wird die Schuld der Angeklagten nicht dadurch ausgeschlossen, dass sie nicht das Bewusstsein der Rechtswidrigkeit gehabt und ihr Tun fuer erlaubt gehalten haben könnten."

.....

"Der Senat ist der Auffassung, dass sich niemand zur Begründung dafür, dass ihn das Bewusstsein der Rechtswidrigkeit gefehlt habe, auf eine Einstellung berufen kann, die im Gegensatz zum allgemein anerkannten Sittengesetz steht."

.....

"Einen verbrecherischen Befehl oder einer verbrecherischen Anweisung brauchen Beamte oder Angestellte nicht zu folgen. Sie sind nicht nur berechtigt, sondern auch verpflichtet, zu prüfen, ob Befehl oder Anweisung dem Strafgesetzen zuwider laufen..... Sie haben das Verlangen und die Massnahmen des Grabowski innerlich gebilligt". Sie haben also die Tötung unheilbarer Geisteskranker, die nicht mehr arbeitsfähig waren, fuer richtig und rechtmässig gehalten. Dass kann sie, auch wenn diese Anordnung der Inhalt eines Befehls war, nicht

entschuldigen.....Kein Untergebener kann sich darauf berufen, dass er einen gegen das allgemein anerkannte Sittengesetz verstossenden Befehl zur Tötung von Menschen fuer rechtmässig gehalten hat."

.....

"In Anwendung des Par. 211 n.F. hat das Schwurgericht die Angeklagten ohne Rechtsirrtum als Mörder verurteilt, weil sie aus niedrigem Beweggrund und heimtueckisch getötet haben. Wie das Schwurgericht festgestellt hat, haben die Angeklagten sich nicht gegen ihre innere Ueberzeugung einem Befehl gebeugt. Es hat sie auch nicht Mitleid mit den Kranken, sondern die Ueberzeugung geleitet, dass diese als infolge Arbeitsunfähigkeit nutzlose Glieder der Gesellschaft zu vernichten seien. Dann kann aber eine Tat, die an so zahlreichen Personen, gewissermassen am laufenden Band, begangen ist und so schwer gegen allgemein anerkannte sittliche Grundsätze verstoesst, eine Tat, die unmenschlich ist, nur als aus niederen Beweggrund begangen angesehen werden."

.....

"Es ist ein Missbrauch der Gewalt ueber Leben und Tod gerade bewusstloser oder infolge Geisteskrankheit einer sachlichen Erörterung ihres Leidens nicht zugänglicher Kranken, wenn diese Gewalt benutzt wird, um solche Kranken aus, wie festgestellt, niederen Beweggrund durch eine in der acusseren Handhabung harmlose Einspritzung zu töten."

.....

"Es ist nicht zu verkennen, dass die Angeklagten Kernicke und Wiczorek nur die letzten Glieder einer laengeren Kette sind, in der mit schwerer Schuld Beladene, ihnen vorgehen." (NO-447, Doc. Buch 16, Seite 108). (Unterstreichungen eingefuegt).

Somit ist festgestellt, dass die Euthanasie nach deutschen Recht Mord war.

In Verbindung mit dieser Frage wird erneut darauf hingewiesen, dass das gesamte Programm vollstaendig geheim gehalten wurde. Hitlers Brief vom 1. September 1939 (R.1516)

war als Geheime Reichssache bezeichnet, wurde niemals veröffentlicht, und das Justizministerium erhielt erst ein Jahr nach seinem Erlass eine Abschrift davon. (630-PS, A.B. 330, R. 1516). Die Verlegung von Insassen von Irrenhäusern nach Euthanasiestationen wurde angeblich auf Befehl des Reichsverteidigungskommissars vorgenommen. (NO-1133, A.B. 335, R. 1546). Die am Programm taktigen Beamten mussten einen schriftlichen Eid zur Geheimhaltung leisten. (NO-1312, A.B. 338; NO-1311, A.B. 339, R. 1551-2). Die Ärzte, die die Euthanasie ausübten, wurden verwarnet, dass sie schwer bestraft werden würden, wenn sie die Arbeit sabotierten. (R. 1894). Das ganze Euthanasieprogramm sollte geheim gehalten werden, da ihnen von Anfang an gesagt wurde, es sei ein Staatsgeheimnis. Der dafür angegebene Grund war, Unruhen unter der Bevölkerung zu vermeiden. Ein Bruch des Geheimnisses wurde als Sabotage angesehen. (Mennecke, R. 1923). Andere hatten einen schriftlichen Eid, der sie zur Geheimhaltung verpflichtete, zu unterschreiben. Es war bekannt, dass die Folge eines Bruches dieses Eides Verschickung in ein Konzentrationslager war. (Schmidt, R. 1826).

F. Persönliche Verantwortlichkeit von Karl Brandt.

Brandt wurde zusammen mit Bouhler durch den oben zitierten Brief Hitlers vom 1. September 1939 die Ausführung des Programms übertragen. Seine Stellung als höchste Gewalt in dem Euthanasieprogramm ist in der eidesstattlichen Erklärung Dr. Boehms, eines der ältesten Mitglieder der NSDAP, skizziert. Als im November 1940 Boehm sich an Martin Bormann mit der Bitte wandte, bei Hitler Audienz zu erlangen, um sich über die Ausführung des Euthanasieprogramms zu beklagen, verwies ihn Bormann an Brandt als den für die Ausführung des Euthanasieprogramms

Verantwortlichen. Infolgedessen hatte Boehm eine Besprechung mit Brandt und, als er sich unter anderem darüber beklagte, dass das Euthanasieprogramm nicht durch Gesetz geregelt sei und nicht im Geheimen ausgeführt werden sollte, gab Brandt zu, dass der Justizminister Guertner auf den Erlass eines Gesetzes gedrängt habe. Auf Grund seiner Unterhaltung mit Bormann und Brandt war Boehm sicher, dass Brandt die führende Persönlichkeit des Programms war. (NO-3059, A.B. R.). Brandt gab zu, dass eine besondere Organisation fuer die Euthanasie eingerichtet werden musste. (R. 2407).

Er unterzeichnete gemeinsam mit Bouhler die Ermächtigung fuer die betreffenden am Programm beteiligten Aerzte, ausserdem musste er fachlich den Fuehrer selbst informieren, und schliesslich eine gewisse Verbindung mit Bouhler unterhalten. (Brandt, R. 2408). Er gab ferner zu, dass ihm und Bouhler Ermächtigungen zum Toeten von Kindern vorgelegt wurden. (R.2544).

Er erklarte, dass er seinen Posten im Laufe des Jahre 1942 aufgab. (R.2433). Waehrend dies von keiner wesentlichen Bedeutung ist, steht fest, dass er seine Stellung als die führende Persönlichkeit im Euthanasieprogramm bis zum Jahre 1944 beibehielt. Dr. Ludwig Sprauer erklarte in seiner eidesstattlichen Erklarerung:

"Den Namen Prof. Dr. Karl BRANDT hoerte ich zum erstenmal mitte 1941 bei einer Konferenz in Berlin. Bei dieser Konferenz erfuhr ich, dass Karl BRANDT und Philipp BOUHLER die leitenden Personen des Euthanasie-Programms sind. Die Konferenz wurde

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von Dr. LINDEN, im Namen des Innenministeriums einberufen und Anstaltsfragen wurden dort vorgebracht. Dr. LINDEN leitete die Besprechung.

"Nach meinem besten Wissen und Glauben waren Philipp BOUHLER sowie Prof. Dr. Karl BRANDT von 1941 bis zum Zusammenbruch Deutschlands, die fuhrenden Persoenlichkeiten in diesem sogenannten Euthanasie-Programm.

"Der Zusammenhang zwischen dem Innenministerium und Prof. Karl BRANDT, im Rahmen des Euthanasie-Programms, war der, dass Karl BRANDT Anordnungen an CONTI und LINDEN erteilte, welche im Namen des Innenministeriums von denselben weitergegeben wurden. BRANDT war zweifellos der Spiritus Rector." (NO-818, Ankl. Bew. 373, R. 1608).

Der Zeuge Wesse sagte in seiner eidesstattlichen Erklerung, dass Brandt mindestens bis Merz 1944 an der Spitz des Euthanasieprogramms stand. (Toetung von Geisteskranken, arbeitsunfaehigen Erwachsenen und die Toetung von geistig zurueckgebliebenen und asozialen Kindern). (No-1428, A.B. 432, R. 1953).

Der Zeuge Mennecke bezeugte, dass er im Anfang 1941 erfuhr, dass der Angeklagte Brandt im Euthanasieprogramm tchtig sei. (R.1874). Er bezeugte ferner:

"Als ich dann 1944 als Patient im Reservelazarett in St. Blasien behandelt wurde, erfuhr ich durch Unterhaltung mit Offizieren, dass Brandt massgeblich beteiligt sei bei der Zusammensichung von Geisteskranken im Raum von Lublin in Polen." (R.1903).

Ferner bezeugte er in Verbindung mit dieser Lubliner Aktion, dass dies bis zum Jahre 1944 stattgefunden haben musse, und dass es hiess, dass geisteskranke Juden in Lublin in grosser Zahl gesammelt wurden. (R.1904)

Der Zeuge Schmidt bezeugte, dass Professor Brandt die rztliche Leitung des Programms hatte, und erst im Jahre 1944 wurde ihm gesagt, dass Brandt das Programm verlassen habe. (R.1825). Er

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wusste auch, dass Brandt die fuchrende Rolle an der zu erfuellenden Aufgabe (Euthanasieprogramm) spielte, dass er (Brandt) diese Aufgabe ausfuehren sollte. (Schmidt, R.1847)

Die beiden Zeugen Schmidt und Mennecke bezeugten auch dass die Uebersichtstafel (NO-253, A.B. 331, R. 1518), die Brandt im Mittelpunkt des Programmes zeigt, richtig ist. (Schmidt, R.1833, Mennecke, R.1876).

Die Beweisaufnahme zeigt ferner, dass Brandt noch am 3. zum Juli 1943 Befehle betr. des Euthanasieprogrammes erteilte. In einem Brief vom 20. Juni 1943 der Allgemeinen Kranken-Transport-Vereinigung an die Irrenanstalten Hadamar, die wie Dokumente und Zeugenaussagen zeigen, eine Vernichtungsstation war - finden sich in den folgenden Satz

"Auf Anordnung des Generalkommissars des Fuehrers fuer das Sanitaets- und Gesundheitswesen, Professor Brandt, habe ich Verlegung von Geisteskranken auch in Ihre Anstalt durchzufuehren. Unter der Voraussetzung, dass die Reichsbahn mir die Waggon, entsprechend meiner Anforderung zur Verfuegung stellt, erhalten Sie am 20. Juli 1943 150 geisteskranken Frauen aus der Heilanstalt Warstein." (NO-892, Ankl.Bew. 442, R.2536).

Brandt war derjenige, an den man sich wenden musste, wenn man ein Kind von der Euthanasie retten wollte. In einem Brief von dem Reichsausschuss zur wissenschaftliche Erfassung von erb- und anlagebedingten schweren Leiden, datiert vom 16. November 1943, an die Landesheilanstalt Eichberg des Dr. Schmidt (wie das Beweismaterial zeigt, eine Toetungsanstalt fuer zurueckgebliebene Kinder) findet man den Satz:

"Auf Grund eines an Herrn Professor Dr. Brandt gerichteten Schreibens in Sachen der Obengenannten bitte ich um einen ausfuehrlichen Befundbericht ueber die erwahnte Anna Gasse, die sich angeblich zurzeit bei Ihnen befinden soll.

und fernerhin:

"Falls aerztlicherseits eine solche Entlassung verantwortet werden kann, waere es zu ueberlegen, ob nicht im Hinblick auf den Ruf der Anstalt vielleicht doch diesem Antrag entsprochen werden sollte."
(NO-890, Ankl.Bew.443, R.2540-1).

Dass der Angeklagte Karl Brandt in der Lage war, Anweisungen zu erlassen und Irrenanstalten in Deutschland Aufgaben zuzuweisen, wird ferner bestaetigt, durch die eidesstattliche Erklaerung des Angeklagten Rose, der sagte dass ihm Brandt im Jahre 1943 eine Irrenanstalt in Thueringen zur Verfuegung stellte und Vorkehrungen traf, dass diese Anstalt nicht in ein allgemeines Krankenhaus umgewandelt werde und dass weiterhin im Jahre 1944 Brandt Vorkehrungen fuer die bessere Ernaehrung von Insassen dieser Anstalt traf, um Rose zu ermoeeglichen, mit seiner Malaria-Therapie fortzufahren. (R.1717). Wenn auch diese Erklaerung an sich nichts mit der Euthanasie zu tun hat, so zeigt sie doch den Einfluss und die Macht, die Brandt im Jahre 1943/44 noch ueber Irrenanstalten ausuebte.
(NO-872, Ankl.Bew. 408, R. 1716).

Nach seiner eigenen Zeugenaussage leitete Brandt die Euthanasie bis zum Jahre 1942. (R.2433, R.2532). Ausser seiner eigenen Einlassung, dass er seinen Auftrag zu jener Zeit zurueckgab, ist kein Beweis vorhanden. Im Gegenteil, die Beweisaufnahme hat ergeben, dass er bis zu einem Zeitpunkt im Jahre 1944 auf diesem Gebiet taetig war. Auf jeden Fall war das Programm in seinem Entstehen verbrecherisch. Die Ermordung von Konzentrationslagerhaefflingen auf dem Wege der Euthanasie begann bereits im Jahre 1940. Nichtdeutsche Staatsangehoerige wurden in bedeutender Zahl einbezogen. Gesunde Juden wurden ohne Untersuchung vernichtet. Fuer den Mord ausgebildetes Personal wurde bereits im Jahre 1941 von den Euthanasiestationen nach dem Osten gesandt,

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um bei der Massenermordung der Juden zu helfen. Personen, deren einziges Verbrechen ihre körperliche Arbeitsunfähigkeit war, wurden von Anfang an der Euthanasie unterworfen. Die Ausmerzungen "nutzloser Esser" war in der Tat der leitende Gedanke des ganzen Programms.

Brandt sagte aus, dass ein Befehl bestand, der nichtdeutsche Staatsangehörige ausnahm, aber er konnte nicht erklären, wie dieser Befehl sich auswirkte, wer ihn empfing und warum, wenn solch ein Befehl vorhanden war, überhaupt Fragebogen für fremde Staatsangehörige ausgefüllt wurden. (R.2499-2503). Die Beweisaufnahme hat gezeigt, dass nichtdeutsche Staatsangehörige niemals ausgenommen waren und in grosser Zahl getötet wurden. Kein mildernder Umstand kann für Brandt ins Feld geführt werden.

IV. Schluss

Karl Brandt als General und späterer Reichskommissar für das Gesundheits- und Sanitätswesen, bekleidete die höchste Machtstellung in dem Gesundheitswesen des dritten Reiches. Seine Aufgabe war, die Arbeit aller Gesundheitsdienste, sowohl der militärischen als der zivilen, zusammenzufassen. Er war Hitler direkt verantwortlich. Er war Hitlers behandelnder Arzt und Gruppenführer (Generalmajor) in der SS.

Brandt wurde mit Rostock von den Sulfonamidexperimenten Gebhardts vor der Versammlung im Mai 1943 unterrichtet. Er war einer der Ehrengäste dieser Versammlung, und die Berichte Gebhardts und Fischers beschrieben die Versuche in allen Einzelheiten.

Vier Tage nach dieser Versammlung forderte Brandt auf dem Wege ueber Grawitz Konzentrationslagerinsassen fuer Versuche mit epidemischer Gelbsucht an. Mit Todesfaellen wurde gerechnet. Versuche wurden an acht polnischen Juden unternommen, von denen einige starben.

Ueber die Fleckfieberversuche in Buchenwald wurde auch in der Versammlung der beratenden Aerzte im Mai 1943, der Brandt beiwohnte, Bericht erstattet. Es ist unvorstellbar, dass er von den Einwendungen, die gegen diese Experimente erhoben wurden, nichts hoerte. Ueberdies wurden Handloser und Conti von diesen Experimenten unterrichtet, und beide mussten Brandt ueber "grundlegende Ereignisse" berichten. Haagens Fleckfieberexperimente in Natzweiler wurden von der Luftwaffe und dem Reichsforschungsrat unterstuetzt. Brandt war Mitglied des Reichsforschungsrats. Im August 1944 bezeichnete Rostocks Amt fuer Wissenschaft und Forschung, das unter Brandt stand, Haagens Fleckfieberforschungen als dringlich.

Brandt empfang von Hitler auf dem Gebiete des chemischen Krieges im Maerz 1944 Vollmachten. Er traf mit Sievers und Hirt zusammen und erhielt einen Bericht ueber die moerderischen Gasexperimente in Natzweiler. Diese Versuche wurden nach dem Maerz 1944 fortgesetzt. Hirts Gasforschung wurde von dem Amt fuer Wissenschaft und Forschung als dringlich bezeichnet.

Brandt unterstuetzte persoenlich Bickenbachs Gasversuche. Er half ihm ein Laboratorium einrichten. Er besuchte Bickenbach im Natzweiler Konzentrationslager, wo er Gasexperimente an Insassen leitete. Berichte Bickenbachs an Brandt beweisen, dass an 40 russischen Kriegsgefangenen Versuche mit Phosgen angestellt und dass mindestens vier von ihnen getoetet wurden. Brandt stand auch in Verbindung mit Versuchen an Haeftlingen,

um die Entgiftung gasvergifteten Wassers zu prüfen.

Sterilisationsversuche wurden von Schumann, einem unter Brandt in Euthanasieprogramm tätigen Arzte, ausgeführt.

Brandts Kenntnis von der systematischen Vornahme von Versuchen an Konzentrationslagerhäftlingen ohne deren Einwilligung, und seine Teilnahme daran, wird ferner erwiesen durch sein wiederholtes Ersuchen um Durchführung solcher Experimente. Im Januar 1943 schrieb er an SS-Obergruppenführer Wolff und fragte, ob man nicht an Konzentrationslagerinsassen Ernährungversuche ausführen könne. Im September 1943 bat er Grawitz, eine neue Brandwundensalbe auszuprobieren. Es wurde ihm von Himmler Erlaubnis erteilt, an Häftlingen, denen künstlich Brandwunden zugefügt werden sollten, solche Versuche auszuführen. Im Februar 1944 forderte Brandt, nach einer Besprechung mit Grawitz zehn Häftlinge zur Erprobung eines Heilmittels an. Die Gefangenen wurden zur Verfügung gestellt.

Brandt war zusammen mit dem Reichsleiter Bouhler mit der Durchführung des Euthanasieprogramms beauftragt, das die rücksichtslose Ermordung von Hunderttausenden hilfloser Männer, Frauen und Kinder bedeutete. Es war dies kein menschenfreundliches Programm, um die Schmerzen eines drohenden und unvermeidlichen Todes zu lindern. Es war das vielmehr ein Programm für die Ausmerzung derjenigen, die man als eine Belastung des Staates ansah, die arbeitsunfähig waren, die verzehrten ohne zu erzeugen. Kein Gesetz gab ihm auch nur einen Schein von Legalität. Es war ungesetzlich in seinem Ursprung und seiner Durchführung. Von sogenannten Gutachtern wurde über Leben und Tod eines Patienten auf der Grundlage von Fragebogen ein Urteil gefällt, ohne dass der Gutachter auch nur den Patienten untersucht hätte. Das Programm umfasste die Ermordung von Deutschen und Staatsangehörigen der besetzten Länder in gleicher Weise. Es erstreckte sich auf in Deutschland zwangsweise festgehaltene Konzentrationslagerhäftlinge nichtdeutscher Nationalität. Es schloss gesunde Juden und Zwangsarbeiter aus dem Osten ein. In den Gaskammern der Euthanasiestationen ausgebildete wissenschaftliche Mörder wurden nach Polen geschickt, um bei den Massen-ermordungen der Juden zu helfen.

Die Anklagebehörde unterstellt, dass das Beweismaterial ergibt, dass Karl Brandt Haupttaäter, Teilnehmer, Anstifter, Vorschubleistender war, seine Zustimmung gab und in Verbindung stand mit Plänen und Unternehmungen, die die Durchführung medizinischer Experimente an lebenden Menschen, ohne Zustimmung der Betroffenen zum Gegenstand hatten, in deren Verlauf Morde, Brutaltaten, Grausamkeiten, Folterungen, Greueltaten und andere unmenschliche Handlungen begangen wurden, und an der Durchführung des sogenannten Euthanasieprogramms mitwirkte und dass seine Schuld im Sinne der Punkte I, II, III und IV der Anklageschrift erwiesen ist.

Ich, Fred Lax X 046 207 bestätige hiermit, dass ich
durchaus vertraut mit der englischen und deutschen
Sprache bin und dass das Vorstehende eine wahrheits-
gemäße und richtige Uebersetzung des Dokuments Brandt
darstellt.

Nuernberg, 1. Juli 1947

Fred Lax
X 046 207

M I L I T A R G E R I C H T S H O F N R . I

FALL NR. 1

ZUSAMMENFASSENDE SCHRICHTSATZ FÜR

DIE VEREINIGTEN STAATEN VON AMERIKA

GEGEN

RUDOLF BRANDT

James M. McHanoy
Alexander G. Hardy
Arnost Horlick-Hochwald
Esther Jane Johnson

Nuernberg,
den 16. Juni 1947

Fuer:

Telford Taylor
Brigadier General, U.S.A.,
Chief of Counsel for War Crimes



EINFUEHRUNG

Unter Punkt I der Anklageschrift wird der Angeklagte Rudolf Brandt beschuldigt, dass er sich mit anderen Personen im Verfolge eines gemeinsamen Vorhabens zu einer Verschwörung und Uebereinkunft zusammengefunden hat, um medizinische Experimente an lebenden Menschen ohne deren Zustimmung vorzunehmen; unter Punkt II und III (Kriegsverbrechen und Verbrechen gegen die Menschlichkeit), dass er Haupttaetor, Teilnehmer, Anstifter, Vorschubleistender gewesen ist, seine Zustimmung gegeben und mit Plänen und Unternehmen in Verbindung gestanden hat, die die Durchführung medizinischer Experimente an lebenden Menschen ohne Zustimmung der Betroffenen zum Gegenstand hatten, die Ermordung von 112 Juden, welche zur Vervollstaendigung einer Skelettsammlung fuer die Universitaet Strassburg ausgesucht worden waren, und die Ermordung und Misshandlung von Zehntausenden polnischer Staatsangehoeriger, die angeblich an unheilbarer Tuberkulose litten; unter Punkt IV, dass er nach dem 1. September 1939 ein Mitglied der SS war, einer Organisation, die vom Internationalen Militaergerichtshof fuer verbrecherisch erklaert wurde.

Dem Angeklagten Rudolf Brandt wird insbesondere die Beteiligung an den Hochen-, Erfrierungs-, Malaria-, Lostsonfigas-, Seewasser-, Epidemische-Gelbsucht-, Sterilisierungs-, Sulfonamid- und Fleckfieberversuchen zur Last gelegt. Auch war er ein Haupttaetor bei der Ermordung von 112 Juden, die zur Vervollstaendigung einer Skelettsammlung ausgesucht worden waren, und bei der Ermordung und Misshandlung tuberkulooser Polen. Um die Sachlage zu vereinfachen, zieht die Anklagebehoerde die Beschuldigung der Teilnahme an den Knochen-, Muskel- und Nervenexperimenten, wie sie in Ziffer 6 (F) der Anklageschrift beschrieben sind, zurueck.

I. STELLUNG UND VERANTWORTUNG

Rudolf Brandt trat der NSDAP im Jahre 1932 bei. 1933 trat er der SS bei und wurde Oberleutnant. Zum Schluss wurde er Standartenfuhrer. Obwohl seine anfaengliche Stellung bei der SS im Jahre 1933 die eines Angestellten im Buero des Chefs des Stabes von Himmler war, mit einem monatlichen Gehalt von RM 120.--, stieg Brandt rapide zum personlichen Referenten Himmlers auf. Im Jahre 1943, als Himmler Reichsinnenminister wurde, wurde Brandt zum Ministerialrat in diesem Ministerium ernannt. (R. Brandt, R.4869-4871). In dieser Eigenschaft war er Abteilungsleiter und Vorstand des ministeriellen Bueros. Ueberdies behielt er seine Stellung als Leiter des personlichen Referats in der SS bei. (R. Brandt, R.4988-9).

Als Himmlers personlicher Referent bekleidete Brandt eine Stellung mit beträchtlicher Verantwortlichkeit. Alle Korrespondenz, die Himmler vorgelegt werden musste, ging zuerst an Brandt. Infolgedessen waren ihm die gesamten Pläne Himmlers und all sein Tun bekannt. Auf Himmlers ausdrueckliche Anweisung hin wurden Fragen offizieller und sogar personlicher Natur ueber Rudolf Brandt geleitet. (R. Brandt, R.4879-80). Dass eine enge und vertrauliche Beziehung zwischen Himmler und Brandt bestand, ergibt sich aus der eigenen Aussage des Angeklagten, in der er angab, dass er sich mit Himmler unmittelbar in Verbindung setzen konnte. (R. 4880). Darueber hinaus blieb Brandt bei Himmler, als die Alliierten Deutschland besetzten, bis zum Tage seiner Festnahme, Pfingstsonntag 1945, 24 Stunden bevor Himmler

selbst von den Alliierten verhaftet wurde. (R. Brandt, R. 4888).

Brandt hatte die Verantwortung fuer die gesamte Post in Himmlers Buero, die sich auf ungefaehr 3500 Briefe pro Monat belief. Bei der Beschreibung seiner Taetigkeit hinsichtlich der Korrespondenz gab Rudolf Brandt an: "Meine Aufgabe in dieser Stellung war, Himmler die an ihn gerichtete Post zur Kenntnis zu bringen, entweder in der sogenannten Lese-post, die er selbst las oder durch Vortrag des Inhalts bzw. durch Vorlesen von Teilen oder des ganzen Briefes, der an ihn gerichtet war." (R. Brandt, R.4873). Im Zusammenhang mit der Korrespondenz betonte der Angeklagte Brandt die Tatsache, dass die Anklagebehörde nur 113 Briefe vorgelegt habe, um seine Mittäterschaft in diesem Fall darzutun. Aus dieser Tatsache versucht er den Schluss zu ziehen, dass, da die Gesamtzahl der in dieser Zeit geschriebenen Briefe 160 000 ueberstieg, die medizinischen Experimente ausserhalb seines allgemeinen Bereichs lagen, und diese medizinischen Angelegenheiten eine kleine Rolle bei der Ausfuhrung seiner Pflichten spielten. Dieses Argument ist natuerlich absurd. Die Kriminalgeschichte ist voll von Tellen, in denen Personen, die viele Jahre hindurch nach dem Gesetz gelebt haben, doch im Verlauf von wenigen Sekunden innerhalb einer ganzen Lebenszeit einen Mord begangen haben. Ausserdem hat das Beweismaterial gezeigt, dass Rudolf Brandt sich an vielen anderen SS-Verbrechen beteiligt hat. Z.B. leitete er die beruechtigte Fliegerverordnung weiter, die zum Totschlag alliierter, ueber Deutschland abgesprungener Flieger ermutigte. (R. 4982). Er beteiligte sich an den Plaenen zur Entfuhrung tschechoslowakischer Kinder (NO-435, Ankl.Bew. 465, R. 4983) und dem Erlass des Befehls zur Zerstoe rung des Ghettos in Warschau und

der Ueberfuehrung seiner juedischen Bewohner in Ausrottungs-lager. (R. 4986-7). Die Tatsache, dass Brandt mit einer grossen Anzahl von Verbrechen in Verbindung stand, die systematisch von der SS begangen wurden, ist gewiss keine Verteidigung fuer seine Teilnahme an den Verbrechen, die den Gegenstand dieser Anklageschrift bilden. Wenn das Gericht die von Brandt vorgeschlagene mechanische Schuld-zumessung sich zu eigen machen wuerde, koennte die Anklage-behoerde mit genau demselben Recht geltend machen, dass seine Schuld, im Vergleich zu der eines Angeklagten, dessen Name sich nur auf elf Dokumenten in den Akten befindet, sich wie zehn zu eins verhaelt. Gerade infolge der Art seiner Stellung wusste Rudolf Brandt nicht nur, was vor sich ging, sondern er erledigte auch die verwaltungstechnischen Einzelheiten bei der Inkraftsetzung von Himmlers umfassenden Befehlen. Wenn eine grundsatzliche Entscheidung benoetigt wurde, brachte er die Angelegenheit Himmler zur Kenntnis. Z.B. sagte er in einem Brief vom 6. Juni 1944 an den Angeklagten Sievers: "Ich habe den Reichsfuehrer SS in Kenntnis gesetzt, da die Sache wichtig genug zu sein schien." (NO-009, Ankl.Bew. 306, R. 1400). Sonst machte er von seiner eigenen Initiative Gebrauch, indem er darauf achtete, dass alles im Einklang mit allgemeinen, von Himmler erlassenen Anweisungen reibungslos vor sich ging.

Dass Brandts Stellung eine wichtige und verantwortliche war, wird durch das in seiner eigenen Verteidigung vorgebrachte Beweismaterial klar bewiesen. Doris Machners eidesstattliche Aussage besagt im wesentlichen, dass der Angeklagte Brandt Himmlers persoenlicher technischer Berater war, und dass er eine grosse Vertrauensstellung bekleidete. Sie gab ferner an, dass Brandt sich bemuehte, die Wuensche, Verlangen und Vorschlaege Himmlers korrekt und vollstaendig auszufuehren, und dass ihm dies sicherlich infolge seiner

objektiven Methoden gelang. (Brandt Bew. 11, R.4997). Dr. Helmut Fitzner gibt in seiner eidesstattlichen Aussage an, dass: "Er (Brandt) die an Himmler gerichteten Schreiben und Eingaben diesem vorzutragen und der ergangenen Entscheidung gemäss die Antwortschreiben vorzubereiten bezw. in seinen Auftrage selbst zu beantworten hatte." (Brandt Bew. 8, R. 4997, Unterstreichungen eingefuegt). Grete Hinze gab in ihrer eidesstattlichen Erklaerung an: "Aus seinen gelegentlichen Aeusserungen entnahm ich, dass er einer der wenigen Untergebenen war, die auch den Mut hatten, Himmler gegenueber Misstaende und unangenehme Sachen offen auszusprechen." (Brandt Bew. 9, R. 4997, Unterstreichungen eingefuegt). Aus der eidlichen Aussage von Dr. Kersten geht hervor, dass Rudolf Brandt sich oft im Gegensatz zu Himmler stellte und dadurch in Schwierigkeiten mit Himmler kam. (Brandt Bew. 5, R. 4996).

Dass Brandt beträchtliche eigene Initiative entwickelte, geht aus der Tatsache hervor, dass Sievers, Rascher, Klau- berg, Greiser und Koppe u.a. ihn bei vielen Gelegenheiten betreffs der Vornahme von medizinischen Versuchen an Konzen- trationslagerinsassen, der Ausrottung tuberkulooser Polen und der Anlegung von Skelettsammlung direkt angingen. Brandt trat seinerseits mit den ^{Grawitz} angeklegten Gebhardt, Rascher und Pohl im Zusammenhang mit diesen kriminellen Betatigungen (siehe unten) in Verbindung. Brandt versuchte die Tatsache, dass viele ^{der} Briefe, die sich auf diese Betatigung bezogen, an ihn adressiert waren, dadurch zu erklaren, dass die Schreiber entweder nicht wussten, was fuer eine Stellung er bekleidete, oder, was Himmler bewog, an sie gerichtete Briefe durch ihn unterzeichnen zu lassen. Das ist natuerlich laecherlich.

Brandt ist mit Himmler seit 1933 zusammen gewesen. Er wurde zusammen mit der SS gross.

Rudolf Brandt war auch Mitglied des Ahnenerbos (siehe Schriftsatz der Anklagebehörde gegen Sievers). Himmler war Präsident dieser Gesellschaft. Brandt fungierte als Verbindungsmann zwischen Himmler und Sievers, dem Reichsgeschäftsführer des Ahnenerbos. (NO-589, Ankl.Bew. 28, R.130).

Brandts Verantwortlichkeit fuer Verbrechen, die ihm in der Anklageschrift zur Last gelegt worden, wird durch seine eigenen eidstattlichen Erklärungen bewiesen. Brandt versuchte, seine eidlichen Aussagen dadurch zu erklären, um nicht zu sagen, von ihnen abzuruecken, indem er bezeugte, dass er die Aussagen auf Grund von Dokumenten gemacht habe, die ihm bei Verhoeren vor der Verhandlung vorgelegt worden seien, was aber nicht der Fall ist. Zweifellos ist Brandt so gut ueber die Verbrechen, die den Gegenstand der Verhandlung bilden, orientiert, wie irgend sonst jemand in Deutschland. Es besteht nicht die geringste Ursache dafuer, seinen vor der Verhandlung gemachten Aussagen nicht volles Gewicht beizumessen. Es ist nicht bewiesen, dass sie durch Betrug oder Zwang erlangt wurden. Im Gegenteil, Brandt gab beim Kreuzverhoer zu, die eidlichen Aussagen freiwillig unterzeichnet und Gelegenheit gehabt zu haben, sie zu lesen und zu verbessern, und dass gewisse Aenderungen tatsaechlich auf sein Ersuchen hin vorgenommen wurden. (R. Brandt, R.4990). Brandts Aussage vor dem Gerichtshof kann in einem Satz zusammengefasst werden: "Ich erinnere mich an nichts." Abgesehen von einer Beschreibung von Himmlers Persoenlichkeit begnuegt er sich damit, suggestive Fragen seines Rechtsanwalts zu beantworten, die dazu angetan waren, ihn als einen koerperlosen, stenographischen Automaten darzustellen - etwa in der Art eines gelehrigen Halbidioten. Gewisslich haben seine Aussagen vor der Verhandlung Anspruch darauf, hoeher

bewertet zu werden als der himmelschreiende Unsinn seiner Aussage.

Brandt macht das Prinzip des hoeheren Befehls als mildernden Umstand fuer seine Verbrechen geltend. Ob er die Richtlinien in der ersten Instanz festlegte, steht nicht zur Debatte, sondern nur, ob er an der Vorbereitung und Ausfuehrung der ihm zur Last gelegten Verbrechen teilnahm. Absatz 4 (b) des Artikels II des Kontrollratgesetzes Nr. 10 lautet wie folgt: "Die Tatsache, dass jemand unter dem Befehl seiner Regierung oder seines Vorgesetzten gehandelt hat, befreit ihn nicht von der Verantwortlichkeit fuer ein Verbrechen; sie kann aber als strafmildernd beruecksichtigt werden." Die einzige Frage, die hier aufgeworfen werden soll, ist also, ob der Gerichtshof im Fall von Rudolf Brandt hoehere Befehle als schuldmildernd ansehen soll. Die Anklagebehoerde ist der Ansicht, dass dies nicht geschehen soll. Aus der Beweisaufnahme ging einwandfrei hervor, dass Brandt von zahlreichen verbrecherischen Experimenten Kenntnis hatte und sich daran beteiligte, der Ermordung von etwa 86 Juden fuer eine Skelettsammlung, die Ausrottung Tausender polnischer Staatsangehoeriger, die angeblich an unheilbarer Tuberkulose litten. Kein Beweis liegt dafuer vor, dass Himmler Brandt befahl, an irgendeinem Verbrechen teilzunehmen. Brandt tat das aus freiem Willen. Kein Beweis liegt dafuer vor, dass Brandt seine Stellung aus Furcht beibehielt. Er fuehlte sich wohl in ihr. Kein Beweis liegt dafuer vor, dass er die geringsten Bedenken bei seiner Taetigkeit in Himmlers Verwaltung hatte. Wenn er solche gehabt haette, waere nichts leichter gewesen, als auf sein Ersuchen hin oder wegen fingierter Untuechtigkeit versetzt zu werden.

Brandt war kein Soldat auf dem Schlachtfeld. Seine Taetigkeit war weit entfernt von der Verwirrung der Front. Er handelte nicht

in spontaner leidenschaftlicher Erregung; er hatte ausreichend Zeit, sich seine Handlungsweise zu ueberlegen und Betrachtungen darueber anzustellen. Er verblieb in seiner Stellung von 1933 bis zu seiner Verhaftung durch die Alliierten im Jahre 1945, nicht weniger als 12 Jahre. Diese Tatsache allein entzieht jeder Grundlage fuer mildernde Umstaende den Boden. Ueberdies, wenn man annehmen wollte, dass Brandt den Befehl erhalten habe, die verbrecherischen Handlungen zu begen, die den Gegenstand dieser Verhandlungen darstellen, so stellt doch, falls keine Furcht vor Vergeltungsmassnahmen in Fall des Ungehorsams vorhanden ist, Gehorsam eine vollkommen freiwillige Beteiligung an dem Verbrechen dar. Das trifft auf Rudolf Brandt zu. Ferner kann das Prinzip des hoeheren Befehls nicht mildernd in Betracht gezogen werden, wo solch ueble und solch zahlreiche Verbrechen bewusst und ruecksichtslos waehrend eines Zeitraumes von vielen Jahren begangen worden sind.

Dies waren also die verantwortlichen Stellungen Rudolf Brandts: Standartenfuehrer in der SS, persoenlicher Referent in Himmlers Stab, Ministerialrat im Innenministerium, Himmlers engster verwaltungstechnischer Mitarbeiter und Mitglied des Ahnenerbek. Brandt machte von diesen Stellungen, seinem persoenlichen Einfluss und seinen vertrauten Beziehungen mit Himmler in einer Weise Gebrauch, die die Begangung von Kriegsverbrechen und Verbrechen gegen die Menschlichkeit, wie sie in der Anklageschrift geschildert sind, mit sich brachte.

II. PERSOENLICHE TEILNAHME AN VERBRECHERISCHEN EXPERIMENTEN.

Der Angeklagte Gebhardt gab zu, dass "die SS und Himmler das gemeinsame Element bei all diesen Versuchen waren." (Gebhardt R. 4192). Waehrend es zugegeben wird, dass Rudolf Brandt keine bedeutenderen grundsuetzlichen Entscheidungen in der ersten Instanz getroffen haben mag, befasste er sich jedoch mit einer grossen Anzahl der verwaltungstechnischen

Einzelheiten, die den glatten Verlauf der Experimente möglich machten. Er gab Himmlers Befehle weiter. Er war der Verbindungsmann zwischen Himmler und dem Ahnenerbe, den Ärzten, die die Experimente vornahmen und den Stellen, die sie unterstützten. Seine Dienste, seine Sorgfalt und seine nie ermüdenden Anstrengungen waren die Seele des Unternehmens. Obwohl er nicht Arzt war, so übertraf doch Brandts Beitrag zu den Experimenten den eines jeden einzelnen daran beteiligten Arztes. Dass seine Beteiligung daran freiwillig und bewusst war, geht aus dem von der Anklagebehörde vorgelegten Beweismaterial hervor. Er beteiligte sich willig an kriminellen Handlungen, die die Ermordung, Folterung und unmenschliche Behandlung Tausender hilfloser Männer, Frauen und Kinder zur Folge hatten.

... Sterilisierungsversuche (Anklageschrift Ziffer 6 (I)).

Im Jahre 1941 war die Ausrottung der juedischen Bevoolkerung Deutschlands und der besetzten Gebiete die offizielle Politik des Dritten Reiches (Urteil des IMG R. 16920 u.f.). Da Arbeiter dringend benoetigt wurden, wurde die Sterilisierung arbeitsfaehiger Juden als Alternative zu einer regelrechten Ausrottung angesehen. (NO-205, Ankl.Bew. 163, R. 536-37). Um billige und schnelle Sterilisierungsmethoden zu ermitteln, wurden an Konzentrationslagerinsassen Versuche in grossen Ausmass mit pharmazeutischen Drogen vorgenommen (NO-036, Ankl.Bew. 143, R. 512), mit Einspritzung einer Reizloesung (NO-212, Ankl.Bew. 163, R. 570), mit Roentgenstrahlen und chirurgischen Eingriffen (Levy R. 556-9). Brandt hatte nicht nur volle Kenntnis von diesen Experimenten sondern arbeitete auch aktiv an ihnen allen mit.

Der Zweck der Sterilisierungsversuche wird von Brandt in seiner eigenen eidstattlichen Aussage gut beschrieben:

"Himmler war hoechst interessiert an der Entwicklung einer billigen und schnellen Sterilisationsmethode, welche gegen die Feinde des Deutschen Reiches, wie Russen, Polen und Juden, angewandt werden konnte. Man hoffte, damit den Feind nicht nur zu besiegen, sondern auch zu vernichten. Die Arbeitskraft sterilisierter Personen koennte von Deutschland ausgenuetzt werden, waehrend die Fortpflanzungsgefahr ausgeschaltet wuerde. Diese Massensterilisation stellte einen Teil von Himmlers Rassentheorie dar. An diese Sterilisationsversuche wurde daher besondere Zeit und Muehe gewandt. Chirurgische Sterilisation war natuerlich in Deutschland bekannt und wurde praktisch angewandt, dies schloss Kastrierung ein. Diese Methode wurde jedoch fuer eine Massenanwendung als zu langsam und zu kostspielig erachtet. Es wurde fernerhin gewuenscht, eine Methode zu erfinden, welche eine nicht direkt bemerkbare Sterilisation ermoeglichte."

Sterilisierungsversuche, um die Wirksamkeit einer als caladium seguinum bekannten Droge (Schweigrohr) festzustellen, wurden Himmler von dem Angeklagten Pokorny im Oktober 1941 vorgeschlagen. Pokorny berichtete, dass Dr. Madaus

in Verlauf seiner Forschung ueber medikamentoesen Sterilisierung von Tieren gefunden haette, dass caladium seguinum bei Tieren permanente Sterilitaet erzeugte, wenn es durch den Mund eingenommen oder durch Injektion verabreicht wurde.

Pokorny gab ferner in seinen Brief an:

".....die ungeheure Wichtigkeit dieses Medikaments fuer den ungeheuren Kampf unseres Volkes ist mir eingefallen. Wenn es gelaenge, auf Grund dieser Forschungen sobald als moeglich ein Medikament herzustellen, das nach relativ kurzer Zeit eine unbemerkte Sterilisierung beim Menschen erzeugt, so staende uns eine neue wirkungsvollste Waffe zur Verfuegung. Allein der Gedanke, dass die drei Millionen Menschen in deutscher Gefangenschaft befindlichen Bolschewisten sterilisiert werden koennten, sodass sie als Arbeiter zur Verfuegung stueenden, aber von der Fortpflanzung ausgeschlossen waeren, eroeffnet weitgehendste Perspektiven."

Er empfahl deshalb unverzuegliche Versuche an Menschen, um die Dosierung und die Dauer der Behandlung zu bestimmen, die Zuechtung des caladium seguinum in Treibhausern und chemische Forschung, um die Droge synthetisch in grossen Umfangen herzustellen. (NO-035, Ankl.Bew. 142, R.510).

Himmler billigte Pokornys Vorschlaege und ersuchte Pohl am 10. Maerz 1942, sich mit Dr. Madaus ins Benehmen zu setzen und "ihm anzubieten, dass er bei uns - in Zusammenarbeit mit dem Reichsarzt SS (Grawitz) - die Moeglichkeit zu Versuchen an verbrecherischen Personen, die an und fuer sich sterilisiert werden muessten, bekommt." Er befahl weiter, dass ihm der vorgesehene Arbeitsplan fuer die Versuche vorgelegt werden solle. Der Angeklagte Rudolf Brandt gab eine Abschrift dieses Briefes an Grawitz weiter (NO-036, Ankl.Bew. 143, R. 512) und legte ihm am 20. April eine Abschrift von Pokornys Bericht und Information ueber die Veroeffentlichung von Dr. Madaus hinsichtlich der medikamentoesen Sterilisierung von Tieren vor. (NO-037, Ankl.Bew. 146, R. 513).

Brandts Buero legte den Bericht von Madaus ueber seine Forschungsarbeit an Tieren SS-Obergruppenfuehrer Heydrich, dem Leiter der Sicherheitspolizei und des SD, vor.

Das vom 23. April 1942 datierte Uebernittlungsschreiben traegt dasselbe Aktenzeichen wie Himmlers Brief an Pohl (752/5) und spricht ausdruecklich von "der Frage der medikamentoesen Sterilisierung." (NO-047, Ankl.Bew. 145, R. 513).

Am 1. Juni 1942 ersuchte Brandt Pohl, den Leiter des WVHL, um einen Bericht hinsichtlich des Fortschritts der Vorbereitungen fuer die Versuche. (NO-038, Ankl.Bew. 147, R. 514). Pohl berichtete am 3. Juni 1942, dass Dr. Koch von Biologischen Institut der Madams-Werke Versuche angestellt habe, die Pflanze aus in Treibhaeusern kultiviertem Samen zu ziehen, da "Schweigrohr", aus welchem caladium seguinum gewonnen wurde, nur in Nordamerika wachse und nicht in hinreichenden Mengen exportiert werden koenne. Diese Versuche seien erfolgreich gewesen, aber die Methode der Zuechtung der Pflanze und Herstellung der Droge sei nicht schnell genug, und die Ausbeute reiche nicht aus, um Experimente in grossen Umfange zu gestatten. Um diese Schwierigkeiten zu beheben, sagte er, waere es noetig, ein grosseres Treibhaus zu bauen. (NO-046a, Ankl.Bew. 146, R. 515-16). Am 11. Juni teilte Brandt Pohl mit, er habe Himmler von seinem Brief in Kenntnis gesetzt und Himmler wolle, dass Pohl dafuer Sorge trage, dass Dr. Koch ein grosses Treibhaus so schnell wie moeglich zur Verfuegung gestellt wuerde, da Himmler die Versuche fuer ausserst wichtig ansehe. Ferner ersuchte Brandt Pohl um weitere Berichte in dieser Angelegenheit. (NO-046b, Ankl.Bew. 149, R. 516). Nur 8 Tage spaeter hatte Brandt selbst eine Konferenz mit Pohl, in Verlauf der er u.a. Pohl von Himmlers Ersuchen in Kenntnis setzte, die Bestandteile von caladium seguinum gruendlich untersuchen zu lassen, um festzustellen, ob ebenso wirksame Bestandteile in anderen, leichter zuganglichen Pflanzen gefunden werden koennten. Brandt ersuchte, dass Dr. Kochs Arbeit in vollstem Ausmass durchgefuehrt werden solle. Er setzte Pohl davon in Kenntnis,

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dass Versuche in Konzentrationslagern mit dem damals vorhandenen Vorrat der Droge vorgenommen werden sollten. Pohl erklärte sich dazu bereit, sofort die notwendigen Schritte zu unternehmen. (NO-044, Ankl.Bew. 150, R. 517). Abteilung IV-B-4 des Reichssicherheitshauptamtes, die Stelle, die mit der Lösung der Judenfrage betraut war (Urteil des IMG, R. 16924), wurde von einem Untergebenen Brandts über Madaus' Forschungsarbeit in Kenntnis gesetzt und ersucht, sich mit Pohl in dieser Sache zusammen zu arbeiten. (NO-050, Ankl. Bew. 151, R. 518). Eine Abschrift dieses Briefes wurde dem Angeklagten Rudolf Brandt übersandt. (NO-051, Ankl.Bew. 152, R. 518).

Der stellvertretende Gauleiter des Gebiets Niederdonau, SS-Obergruppenführer Gerland, setzte Himmler am 24. August 1942 davon in Kenntnis, dass der Direktor des Amtes für Rassenpolitik in diesem Gau, Dr. Fehring, sich mit der Frage von Massensterilisierung beschäftigt habe und in Zusammenhang damit auf Dr. Madaus' Arbeiten über medikamentöse Sterilisierung durch *caladium seguinum* gestossen sei. Aus ähnlichen Gründen, wie sie von dem Angeklagten Pokorny vorgetragen wurden (NO-035 oben), befürwortete Gerland Experimente an Insassen des Zigeunerlagers Lackenbach, Niederdonau. Gerland wies darauf hin, dass im Fall des erwarteten Erfolges dieser Experimente es möglich sein würde, eine praktisch unbegrenzte Anzahl von Personen in kürzester Zeit und auf die denkbar einfachste Weise zu sterilisieren. (NO-039, Ankl. Bew. 153, R. 519).

Es war der Angeklagte Rudolf Brandt, der sich der Sache annahm und Gerland am 29. August von den Schritten in Kenntnis setzte, die hinsichtlich der Experimente mit *caladium seguinum* schon getroffen worden waren. Aus Brandts Brief geht hervor, dass Himmler zu dieser Zeit nicht anwesend war. Brandt erledigte diese Angelegenheit auf seine eigene Initiative hin

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und teilte Gerland mit, dass Pohl und Grawitz die Leitung der Experimente unter sich hielten. Er ersuchte Gerland um Auskunft, ob Dr. Fehringers *caladium seguinum* verfügbar habe und welchen Weg der letztere zur Beschaffung dieser Pflanze vorschlagen würde. (NO-040, Ankl.Bew. 154, R. 521). Brandt uibernittelte Abschriften von Gerlands Brief an Pohl und Grawitz. Am 7. September 1942 gab Pohl Gerland weitere Einzelheiten an und setzte ihn davon in Kenntnis, dass er und Dr. Lolling die Experimente persönlich beaufsichtigten. Pohl wiederum schickte Abschriften dieses Briefes an Rudolf Brandt und Grawitz. Im Begleitschreiben an Brandt setzte ihn Pohl davon in Kenntnis, dass er in den Madaus-Werken gewesen sei, um sich selbst vom Fortschritt der Experimente zu überzeugen, und dass Dr. Lolling bei ihnen mitwirken würde. Mit Madaus war ein Uebereinkommen getroffen worden, "die Versuche sobald wie moeglich nach unseren Konzentrationslagern zu verlegen." (NO-041, Ankl.Bew. 156, R. 523). Am 14. Oktober 1942 schrieb Gerland an Rudolf Brandt und setzte ihn von dem von Pohl erhaltenen Brief in Kenntnis. Er sagte, er betrachtete Fehringers Vorschlag, Insassen des Zigeunerlagers Lackenbach zu verwenden, als ueberholt, da Pohl ihn davon benachrichtigt habe, dass Lolling schon mit dem biologischen Institut Madaus zusammenarbeite. Er teilte Brandt ferner mit, dass Fehringers glaube, es sei durchaus moeglich, *caladium seguinum* chemisch herzustellen, oder die Pflanze in Treibhausern in einem fuer Versuchszwecke ausreichenden Umfange zu zuechten. Er schlug auch Zusammenarbeit zwischen Lolling und Fehringers vor. (NO-043, Ankl.Bew. 157, R. 524). Aus Brandts Antwort vom 25. Oktober geht hervor, dass er waehrend Himmlers Abwesenheit aus eigener Initiative seine Zustimmung zur Zusammenarbeit zwischen Fehringers und Lolling gab.

(NO-049, Ankl.Bow. 159, R. 525). Brandt schickte Pohl Abschriften von Gerlands Brief vom 14. Oktober (NO-043 oben) und von seiner Antwort (NO-049 oben). In seinem Begleitschreiben an Pohl drueckte er die Ueberzeugung aus, dass er, obwohl er Himmler nicht befragen konnte, sicher sei, dass der letztere Versuche, caladium seguinum synthetisch herzustellen, bestimmt willkommen heissen wuerde. Er ersuchte Pohl, Vorkehrungen fuer eine Fuchlungnahme zwischen Lolling und Fehringer zu treffen. (NO-058, Ankl.Bow. 158, R. 524).

Es kann kein begruendeter Zweifel darueber bestehen, dass die Sterilisierungsexperimente mit caladium seguinum tatsaechlich an Konzentrationslagerinsassen vorgenommen wurden. Himmler, der die hoechste Stelle fuer die Entscheidung solcher Fragen war, gab nicht nur seine Zustimmung zu diesen Experimenten (NO-036 siehe oben) sondern betrachtete sie auch als "aeusserst wichtig" (NO-046b siehe oben) und ordnete an, dass sie auf jeden Fall in Konzentrationslagern durchzufuehren seien. (NO-044 oben). Pohl, der die Verwaltung der Konzentrationslager unter sich hatte, erklarte sich auf Brandts Ersuchen hin bereit, unverzueglich die notwendigen Schritte zu unternehmen. (NO-044 siehe oben). Es kann kein Zweifel darueber bestehen, dass Abteilung IV-B-4 des RSHL, die mit der Loesung der Judenfrage betraut war, von Madaus' Forschungswerk in Kenntnis gesetzt worden war, um die fuer die Experimente notwendigen juedischen Opfer zur Verfuegung zu stellen. Die Mitarbeit von Dr. Lolling, der der fuer alle Konzentrationslager zustaeendige Arzt war, laesst sich nur in Verbindung mit der Vornahme von Experimenten in diesen Lagern erklaren. Das geht auch einwandfrei aus Gerlands Brief an Brandt hervor:

"SS-Obergruppenfuehrer Pohl hat mir mitgeteilt, dass der Arzt seines Hauptamtes mit dem Biologischen Institut Madaus' zur Erforschung der Wirkung von caladium seguinum bereits zusammengearbeitet, sodass der Vorschlag meines Gauhauptstellenleiters, Dr. Fehringer, hinfaellig wird." (NO-043 oben - Unterstreichungen nachtraeglich).

Es kann nur der Schluss gezogen werden, dass Pohl und Lolling die Versuche in den Konzentrationslagern so durchfuehrten, wie Himmler, Brandt und Madaus es untereinander beschlossen hatten. (NO-041, siehe oben). Ausserdem hat Brandt selbst in seiner eidesstattlichen Erklaerung zugegeben, dass Experimente mit Caladium Seguinum an lebenden Menschen in Konzentrationslagern vorgenommen wurden:

"Als ein Ergebnis von Pokornys Vorschlag wurden Versuche an Konzentrationslagerinsassen durchgefuehrt, um die Wirkung der Droge zu pruefen. Gleichzeitig bemuehte man sich, die Pflanze in grossen Mengen anzubauen. Oswald Pohl, Chef des L.VHA, nahm persoenliches Interesse an dieser Angelegenheit. Treibhaeuser wurden mit gewissem Erfolg benutzt, um die Pflanze anzubauen, und die Versuche wurden fortgesetzt." (NO-440, siehe oben).

Am 30. Mai 1942 schrieb Dr. Glauberg an Himmler und bat um seine Unterstuetzung bei Sterilisationsversuchen an weiblichen Konzentrationslagerhaeftlingen. (NO-211, Ankl. Bew. 169, R. 564). Am 4. Juni sandte der angeklagte Poppendick an Rudolf Brandt eine Liste von Aerzten, die bevollmaechtigt waren, Sterilisationen auszufuehren. Glauberg ist unter diesen Aerzten aufgefuehrt. (NO-214, Ankl. Bew. 168, R. 562). Am 7. und 8. Juli fand eine Konferenz zwischen Himmler, Gebhardt, Gluecks und Glauberg statt. Das Thema der Besprechung war die Sterilisation von Juedinnen. Himmler versprach Glauberg, dass das Auschwitzer Konzentrationslager ihm fuer Experimente an lebenden Menschen zur Verfuegung gestellt werden wuerde. Es wurde ihm die Aufgabe uebertragen, Experimente durchzufuehren, um eine Methode der Sterilisation ohne Wissen der Betroffenen auszuprobieren. Es wurde ihm anbefohlen, sobald als moeglich ueber diese Angelegenheit zu berichten, sodass Massnahmen "zur praktischen Durchfuehrung und Sterilisation in einem groesseren Masstabe" ergriffen werden koennten. Es wurde vorgeschlagen, Hohlfelder ueber die Sterilisation von Maennern mit Roentgenstrahlen zu befragen. Den Teilnehmern an

der Konferenz wurde eingeschärft, dass diese Versuche streng geheim seien. Rudolf Brandt leugnete, bei dieser Konferenz anwesend gewesen zu sein. Wie dies auch sein moge, eine der beiden Aktennotizen, die eine genaue Kenntnis aller in dieser Konferenz besprochenen Einzelheiten offenbaren, wurde von Brandt diktiert (NO-215, Ankl. Bew. 172, R. 568), und die andere wurde von ihm unterschrieben. (NO-216, Ankl. Bew. 170, R. 565).

Am 10. Juli 1942 schrieb Rudolf Brandt an Glauberg einen Brief, in welchem er ihn ueber die Einzelheiten seiner Aufgabe und die Pläne zur Durchfuehrung der Versuche unterrichtete. Glauberg wurde anbefohlen, an Himmler zu berichten, wie lange es dauern wuerde, tausend Juedinnen nach seinem Verfahren zu sterilisieren. Es wurde vorgeschlagen, dass Glauberg sich mit Pohl und einem Lagerarzt des Ravensbruecker Konzentrationslagers in Verbindung setzen sollte, um dort seine Sterilisationsversuche durchzufuehren. Brandt fuhrte weiter aus:

"Ueber die Wirksamkeit der erfolgten Sterilisierung muessen dann auch eingehende Versuche durchgefuehrt werden, groesstenteils in der Art, dass nach einer bestimmten Zeit, die Sie dann bestimmen muessen, vielleicht durch Röntgenaufnahmen, festgestellt wird, welche Veraenderungen eingetreten sind. In dem einen oder anderen Fall duerfte aber auch ein praktischer Versuch in der Weise durchgefuehrt werden, dass man eine Juedin mit einem Juden fuer eine gewisse Zeit zusammensperrt und dann sieht, welcher Erfolg dabei auftritt.

"Ich darf Sie bitten, mir zur Unterrichtung des Reichsfuehrers SS Ihre Aeusserung zu meinem Brief mitzuteilen." (NO-213, Ankl. Bew. 171, R. 567 - Unterstreichungen eingefuegt).

Brandt sandte Durchschlaege dieses Briefes an Pohl, Grawitz, SS-Sturmabannfuehrer Koegel beim VHA und an Gruppenfuehrer Lueller beim RSHA. Am 7. Juni 1943 konnte Glauberg berichten, dass es moeglich sei, mehrere hundert, wenn nicht gar tausend, taeglich nach seinem Verfahren zu sterilisieren. Er erklaerte, dass die Sterilisierung

"durch eine einzige Einspritzung vom Eingang der Gebärmutter her und bei der üblichen gynäkologischen Untersuchung erfolgen kann." (NO-212, Ankl. Bew. 173, R. 570).

Die Sterilisationsversuche Glaubergs wurden tatsächlich im Auschwitz-Konzentrationslager ausgeführt. Brandt korrespondierte mit Glauberg in dieser Angelegenheit wieder am 19. Juni und 22. Juli 1943. Obwohl diese beiden Briefe nicht vorhanden sind, geht aus Glaubergs Antwort an Brandt vom 6. August klar hervor, dass diese Schriftstücke Glauberg daran erinnern sollten, seine Versuche zu beschleunigen. In seiner Antwort schrieb Glauberg:

"Den zweiten Röntgenapparat benötige ich wirklich dringend, ich kann Ihnen das leider nur mündlich erklären - jedenfalls besteht sogar die Wahrscheinlichkeit, dass später noch weitere Apparate benötigt werden (das hängt von der Art der Anwendung meiner Ergebnisse - in dem Monat wo diese fertig sind - ab). Denn den Apparat kann ich ohne weiteres bekommen und zwar 'wartet' er auf mich - in Wirklichkeit habe ich ihn nämlich schon!"

"Ich hatte die Gelegenheit, selbst einen zu erwerben und habe schnell zugegriffen, und der Apparat steht bereits seit einigen Wochen. Es geht mir aber um folgendes:

"Diesen Apparat brauche ich fuer meine gegenteiligen (positiven) Untersuchungen hier in Koenigshuette dringend. Ich kann ihn aber in Auschwitz nicht eher entbehren, bis ich einen zweiten Apparat von der Waffen-SS bekomme. Wenn ich Ihnen etwas unter uns sagen darf, so verhaelt sich die Sache so, dass ich fuer diesen meinen vorhandenen Apparat Ersatz bekomme, wenn der Reichsfuehrer SS ihn mir bewilligt und ja dazu sagt. Ich waerde ihn und Sie damit nicht behelligen, wenn es nicht wirklich notwendig waere." (NO-210, Ankl. Bew. 174, R. 572).

Brandt selbst gab in seiner eidesstattlichen Erklaerung zu, dass Glauberg im Auschwitz-Konzentrationslager Sterilisierungsversuche in grossem Masstabe durchfuehrte. Er sagte:

"Dr. Glauberg entwickelte fernerhin eine Methode zur Sterilisation von Frauen. Diese Methode basierte auf der Injektion einer reizbaren Lösung in die Gebärmutter. Glauberg führte ausgedehnte Versuche an Jüdinnen im Konzentrationslager Auschwitz durch. Mehrere tausend Frauen wurden von Glauberg in Auschwitz sterilisiert." (NO-440, siehe oben).

Sterilisierung von Juden mittels Röntgenstrahlen wurde von Angeklagten Brack im Frühjahr 1941 Himmler vorgeschlagen. (NO-426, Ankl. Bew. 160, R. 532). Himmler forderte Brack auf, mit einigen der Ärzte, die im Euthanasieprogramm tätig waren, die Möglichkeit einer Sterilisierung zu prüfen, die die Opfer über ihr schreckliches Schicksal im Unklaren lassen würde. (Brack, R. 7484). Am 28. März 1941 sandte Brack an Himmler einen Bericht über die Ergebnisse von Versuchen bezüglich Röntgenstrahlen-Kastrationen, in dem er ausführte, dass Kastrationssterilisierungen mit Röntgenstrahlen ohne Schwierigkeit ausgeführt werden könnten. Brack schätzte, dass mit 20 Röntgeneinrichtungen 3000 bis 4000 Opfer täglich sterilisiert werden könnten. (NO-203, Ankl. Bew. 161, R. 534-5). Am 12. Mai 1941 bestätigte SS-Sturmbannführer Tiefenbacher, ein Untergebener Brandts, den Empfang von Bracks Bericht und sandte eine Abschrift davon an Heydrich, den Chef der Sicherheitspolizei und des SD. (NO-204, Ankl. Bew. 162, R. 536).

Der Einfall in Russland begann im Sommer 1941, und Bracks Vorschlag wurde nicht sofort in Angriff genommen. Aber am 23. Juni 1942, als Deutschland an der Schwelle des Sieges zu stehen schien, schrieb Brack wieder an Himmler und schlug die Sterilisierung arbeitsfähiger Juden vor. Nichtarbeitsfähige Juden wurden ausgerottet. (NO-205, Ankl. Bew. 163, R. 536-7). Himmler schrieb am 11. August 1942 an Brack, dass weitere Experimente an Konzentrationslagerhäftlingen zur Feststellung der Wirksamkeit der Röntgensterilisierung durchgeführt werden sollten, und zwar von sachverständigen Ärzten, die

von Bracks Chef, Bouhler, zur Verfügung gestellt werden sollten. Rudolf Brandt sandte Abschriften dieses Briefes an Pohl und Grawitz, um Himmlers Entscheidung in die Wirklichkeit umzusetzen. (NO-206, Ankl. Bow. 164, R. 536). Brack befahl seinem Stellvertreter Blankenburg, sich zu diesem Zweck mit den Leitern der Konzentrationslager in Verbindung zu setzen. Blankenburgs Brief, der diese Tatsache Himmler mitteilte, traf am 15. August 1942 in Brandts Büro ein. (NO-207, Ankl. Bow. 165, R. 538). Als Folge davon wurden von Dr. Schumann Versuche an Häftlingen im Auschwitz Konzentrationslager durchgeführt. (NO-208, Ankl. Bow. 166, R. 539). Eines der Opfer dieser Experimente war der junge polnische Jude Balitzky, der, nachdem er starken Dosen von Röntgenstrahlen auf seine Geschlechtsteile ausgesetzt worden war, durch Operation kastriert wurde, um die Wirkung der Röntgenstrahlen festzustellen. (Balitzky, R. 541, u. ff.). Mindestens 100 unfreiwillige Versuchspersonen -- Polen, Russen, Franzosen und Kriegsgefangene -- wurden für diese Versuche benutzt. Nur junge, gut gebaute Häftlinge bei bester Gesundheit wurden dazu herausgesucht. (Lovy, R. 556-7). Fast alle Opfer dieser Versuche wurden ausgerottet, da die schweren Röntgenverbrennungen sie arbeitsunfähig machten. (Lovy, R. 557; Balitzky, R. 543). Brandt gab in seiner eidesstattlichen Erklärung vor dem Verfahren zu, dass "Sterilisationsversuche ebenfalls mit Röntgenstrahlen durchgeführt wurden. Dr. Schumann beschäftigte sich mit dieser Methode in "Auschwitz und sterilisierte eine Anzahl von Männern." (NO-440, siehe oben).

Wegen einer weiteren Schilderung der Sterilisationsversuche verweisen wir auf den Schriftsatz der Anklagebehörde gegen Pokorny, Gebhardt und Brack.

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B. Hoehenexperimente (Anklageschrift, Ziffer 6 (A))

Rudolf Brandt nahm aktiv an den Hoehenexperimenten teil. Seine Kenntnis dieser Versuche und seine Teilnahme an ihnen ist durch seine eigene eidesstattliche Erklaerung bewiesen. (NO-191, Ankl. Bew. 43, R. 163). Der Plan entstand bei Rascher und wurde mit tatkraeftiger Unterstuetzung durch Brandt und Sievers von ihm und den angeklagten Woltz, Huff und Romberg durchgefuehrt. Wegen einer vollständigen Beschreibung der verbrecherischen Natur der Hoehenexperimente verweisen wir auf den Schriftsatz der Anklagebehörde gegen Woltz, Huff und Romberg.

Der Vorschlag fuer die Hoehenversuche an unfreiwilligen Versuchsobjekten wurde Himmler von Rascher in einem Brief vom 15. Mai 1941 gemacht. Rascher teilte Himmler mit, dass niemand sich fuer solche Versuche freiwillig hergeben wuerde, weil sie sehr gefaehrlich seien. Er bat deshalb, dass ihm Verbrecher zur Verfuegung gestellt werden sollten. Er rechnete damit, dass unter den Versuchsobjekten sich einige Todesfaelle ereignen wuerden. (1602-PS, Ankl. Bew. 44, R. 167). Dieser Brief wurde von Himmler an Brandt weitergegeben, der Rascher mitteilte, dass "Gefangene natuerlich gerne zur Verfuegung gestellt werden wuerden." Gleichzeitig informierte Brandt den Chef der Sicherheitspolizei, damit der letztere sich mit Rascher in dieser Angelegenheit in Verbindung setze. (1582-PS, Ankl. Bew. 45, R. 169). Rascher schrieb spaeter an Brandt, um die Erlaubnis zur Durchfuhrung der Hoehenversuche im Dachauer Konzentrationslager selbst zu erhalten (NO-217, Ankl. Bew. 46, R. 171), waehrend er urspraenglich um Erlaubnis gebeten hatte, seine Versuche an der "bodaendigen Pruefstelle fuer Hoehenforschungen der Luftwaffe" in Muenchen durchzufuehren. (1602-PS, siehe oben). Dieser Brief zeigt, dass Rascher und Brandt auch ^{enge}persoenliche Beziehungen hatten, da er Brandts Gattin kennen gelernt hatte und im Januar 1942 einen Privatbesuch erwartete.

Am 21. März 1942 informierte Brandt Sievers, der sich am 9. März mit einer Anfrage bezüglich der Höhenversuche mit ihm in Verbindung gesetzt hatte, dass diese Versuche bereits an Konzentrationslagerinsassen in Dachau vor sich gingen. Himmler hatte solche Versuche unter der Bedingung gebilligt, dass Rascher dabei mitwirke. (1581a-PS, Ankl. Bew. 48, R. 175).

Am 13. April 1942 teilte Brandt Rascher mit, dass Himmler seinen Zwischenbericht ueber die Höhenversuche erhalten habe. Bei dieser Gelegenheit sprach Brandt den Wunsch aus, dass Rascher seine Versuche mit demselben Erfolg wie seither fortfuehren moege. (1971c-PS, Ankl. Bew. 50, R. 180). Der Bericht enthueilt, dass mehrere der Versuchspersonen getoetet worden waren, nachdem sie einer kuenstlich erzeugten Hoehe von 12 km 30 Minuten lang ausgesetzt worden waren. waehrend der Leichenoeffnung begann das Herz eines der Opfer zu schlagen und schlug eine zeitlang weiter. Der Bericht sagte auch, dass "die extremen toedlichen Versuche an besonders zugewiesenen VP's vorgenommen werden, da sonst eine derartige Kontrolle nicht moeglich waere" (1971a-PS, Ankl. Bew. 49, R. 175). In seinem Bericht vom 16. April 1942 erklaeerte Rascher, dass sie die Versuche wiederholt hatten, indem sie Versuchspersonen in einer angenommenen Hoehe von 12 km toeteten und dann versuchten, die Herztatigkeit der vier Opfer wieder herzustellen. (NO-218, Ankl. Bew. 56, R. 186). Brandt wusste von diesem Bericht, da er in seinem Brief an Rascher vom 27. April dem letzteren mitteilte, Himmler habe diesen Bericht mit Interesse gelesen und einen Gesamtbericht Raschers ueber die bisher ausgefuehrten Versuche angefordert, um ihn Generalfeldmarschall Milch vorzulegen. (NO-219, Ankl. Bew. 59, R. 190). Als Himmler Raschers ersten Bericht gelesen hatte (1971a-PS, siehe oben), erliess er den Befehl, dass zum Tode verurteilte Gefangene,

die lebensgefährlichen Versuchen unterworfen worden und mit dem Leben davon gekommen waren, zu lebenslanglichem Konzentrationslager begnadigt werden sollten. Da bis zum 20. Oktober 1942 fuer diese Art Experimente nur Polen und Russen benutzt worden waren, setzte sich Rascher wegen der Frage, ob die "Amnestie" auf sie Anwendung finde, mit Brandt in Verbindung. (1971d-PS, Ankl. Bew. 52, R. 183). Brandt teilte dem SS-Buero in Muenchen am 21. Oktober mit, dass Himmlers Amnestie auf Polen und Russen keine Anwendung finde. (1971e-PS, Ankl. Bew. 53, R. 183).

Brandt wusste sehr genau, dass bei den Hoehenversuchen Todesfaelle vorkamen. In einem Brief Frau Raschers an ihn, datiert vom 13. April 1942, ersuchte sie um die Erlaubnis, Farbenphotographien von den frisch seziierten Leichen zu machen, da im allgemeinen innerhalb der Konzentrationslager nur schwarz-weiße Aufnahmen zu machen erlaubt war. (1581b-PS, Ankl. Bew. 54, R. 184). Zuvoerkommenderweise teilte Brandt Gluecks mit, Himmler habe sich damit einverstanden erklaert, dass Rascher in Verbindung mit seinen Versuchen in Dachau Farbenphotographien mache. (1581(c)-PS, Ankl. Bew. 55, R. 185).

Am 20. Juli 1942 unterbreitete Rascher Brandt den Schlussbericht ueber die Hoehenversuche, der von ihm, Ruff und Romberg ausgearbeitet worden war. Himmler hatte ausdruecklich befohlen, dass dieser Bericht Brandt zugeleitet werden sollte. Rascher ersuchte Brandt, Himmler einen Begleitbrief zu einer weiteren Abschrift des Berichtes, die an Feldmarschall Milch weitergeschickt werden sollte, zuzusenden. (1607(a)-PS, Ankl. Bew. 65, R. 204). Dieser Bericht wurde auch tatsaechlich von Himmler am 25. August 1942 an Milch gesandt, mit der Bitte an Milch, Rascher und Romberg zu erlauben, ihm die Versuche zu erklaren und einen Film vorzufuehren. Himmler erachtete die Ergebnisse der Versuche fuer so wichtig fuer die Luftwaffe, dass er ueberzeugt war, dass

Milch nach der Besichtigung des Films Goering darüber berichten wurde. (1607(b)-PS, Ankl. Bew. 67, R. 213). Da Milchs Einladung nicht sofort erfolgte, wurde Brandt am 26. August vom Angeklagten Sievers Maschers wegen Angegangen und ihm mitgeteilt, dass Mascher befürchte, jemand anders als er und der Angeklagte Romberg habe Milch bereits über die Höhenversuche unterrichtet. Sievers teilte diese Ansicht Maschers nicht, "denn wer sonst ausser Mascher und Romberg könnte den Bericht gemacht haben?" (NO-221, Ankl. Bew. 68, R. 213). Am 29. August sandte Brandt an Sievers eine Antwort, die besagte, dass Maschers Annahme nicht richtig sei. Himmler habe Milch nur wenige Tage vorher geschrieben, und Milch selbst würde die nötigen Anordnungen für die Abgabe des Mascher-Romberg-Berichts erlassen. Brandt legte eine Abschrift von Himmlers Brief an Milch bei. (NO-222, Ankl. Bew. 69, R. 215). Als Milch am 31. August 1942 Himmler mitteilte, er beabsichtige, Mascher und Romberg einzuladen, ihren Vortrag zu halten und den Film zu zeigen, hat Brandt dies unverzüglich Mascher und Sievers mitgeteilt. (NO-223, Ankl. Bew. 71, R. 215).

Am 3. Oktober ist Mascher wiederum an Brandt mit dem Vorschlag herangestiegen, dass er gern Himmler persönlich über die "Dachau Experimente" berichten möchte. Brandt teilte ihm jedoch mit, dass dies nicht möglich sei, da Himmler längere Zeit vom Hauptquartier abwesend sein werde. Er forderte deshalb Mascher auf, seinen Bericht sobald wie möglich schriftlich einzureichen. Er, Brandt, werde ihn an Himmler durch einen Kurier nachschicken. Er fuhr dann fort:

"Eine Entscheidung, wie die Dinge hinsichtlich der Hoehenversuche liegen, die Sie leider dem Generalfeldmarschall Milch nicht vortragen konnten, ist im Augenblick nicht moeglich. Ich werde dem Reichsfuehrer-SS, sobald er von seiner Reise zurueckkommt, fragen, was er hier befiehlt." (NO-293, Ankl. Bew. 74, R. 220).

Dass Rascher und Romberg keine Gelegenheit gegeben wurde, Milch persoendlich Bericht zu erstatten, hat dem Angeklagten Sievers schwere Sorge gemacht. Am 21. Oktober 1942 fragt er Brandt um Rat, ob er an Hippke ueber diese Angelegenheit schreiben und ihm mitteilen solle, dass Rascher und Romberg von Himmler den Befehl erhalten haetten, nur an Milch persoendlich zu berichten. Eine solche Massnahme wuerde Rascher und Romberg, die sehr beleidigt waeren, veranlassen, weiter bei den Versuchen mitzuwirken. Sievers erbat auch Brandts Hilfe, um wiederum die Unterdruckkammer zu bekommen, die fuer die Versuche notwendig war. Er faehrte aus:

"Die Untersuchungsversuche sind jetzt abgeschlossen, so dass die vom Reichsfuehrer-SS gewuenschte Fortsetzung der Hoehenflugversuche beginnen kann. Dazu gebrauchen wir wiederum die Unterdruckkammern, diesmal jedoch mit Stufenaggregatpumpen, weil sonst groessere Hoehenversuche nicht durchgefuehrt werden koennen. Die neuerlichen Versuche werden dann auch dazu dienen, um die Habilitationsarbeit von Rascher zum Abschluss zu bringen. Die Ueberlassung der Unterdruckkammer wird jedoch nur moeglich sein, wenn der Reichsfuehrer-SS deswegen persoendlich an Generalfeldmarschall Milch schreibt." (NO-226, Ankl. Bew. 75, R. 220).

Brandt unterstuetzte die verbrecherischen Versuche Raschers und seiner Mitarbeiter im Dachauer Konzentrationslager bis zum Sommer 1944.

C1. Erfrierungsexperimente (Anklageschrift, Ziffer 6 (B))

Wegen einer Beschreibung der verbrecherischen Natur dieser Experimente siehe den Schriftsatz der Anklagebehörde bezüglich des Angeklagten Sievers.

Der Angeklagte Rudolf Brandt gab in seiner eidesstattlichen Erklärung eine genaue und detaillierte Beschreibung der Erfrierungsexperimente. (NO-242, Ankl. Bew. 80, R. 230). Brandts Kenntnis und Unterstützung der Erfrierungsexperimente wird nicht nur durch diese eidesstattliche Erklärung bewiesen sondern auch durch viele andere Dokumente bei den Akten.

Am 3. Oktober 1942 schrieb Rascher an Brandt in einem persönlichen Brief, dass die Erfrierungsexperimente abgeschlossen seien "mit Ausnahme jener, ueber die Erwärmung mit Körperwärme". Ein von ihm und Holzlochner abgefasster Bericht sollte bei einer Luftwaffenkonferenz ueber Erfrierung am 25. Oktober in Nuernberg erstattet werden, und Rascher bat Brandt, Himmlers Einwilligung hierzu einzuholen. Raschers Brief enthuehlt weiterhin, dass Brandt Himmlers Ersuchen vom 22. September 1942, dass die Versuche ueber Erwärmung mit Körperwärme durchgefuehrt werden sollten, weitergeleitet hatte. Nachdem er einige Einzelheiten ueber die Hoehenversuche mitgeteilt hatte, brachte Rascher seine Meinung zum Ausdruck, dass Brandt "schon lange ueber diese ganze Geschichte informiert wurde" und schloss seinen Brief, indem er Brandt sehr fuer seine Bemuehungen dankte. (NO-285, Ankl. Bew. 86, R. 244).

Vier Tage nachher schickte der Leiter des Dachauer Konzentrationslagers an Brandt ein Telegramm mit der Bitte, SS-Brigadefuehrer Gluecks vom RSHA anzuweisen, "von Ravensbrueck die vier von Stabsarzt Dr. Rascher fuer seine Experimente verlangten Frauen nach Dachau zu schicken". Brandt entsprach dieser Bitte am 8. Oktober. (1619-PS,

Ankl. Bew. 87, R. 247-8). Die weiblichen Konzentrationslagerhäftlinge wurden tatsächlich von Rascher dazu benutzt, die Opfer der Erfrierungs-experimente wieder "durch Tierwärme" zu erwärmen. (NO-323, Ankl. Bew. 94, R. 325; 1616-PS, Ankl. Bew. 105, R. 342)!

Am 11. November 1942 traf Brandt mit dem angeklagten Gebhardt Vor-bereitungen zu einer Konferenz mit Rascher, in welcher der letztere Ge-legenheit haben wurde, Gebhardt ueber die Erfrierungsversuche zu be-richten. Brandt teilte Gebhardt mit, dass weitere Erfrierungsversuche in Kuerze ausgefuehrt werden wuerden. (NO-314, Ankl. Bew. 98, R. 331). Raschers wegen setzte sich Brandt ausserdem am 20. November mit Pohl in Verbindung und bat darum, dass Rascher "in seinen Versuchen in Dachau bestmoeglichst unterstaetzt werden solle". Ausserdem ersuchte er Pohl, Befehle zu erlassen, dass die Kleiderfabrik in Dachau Rascher dabei hel-fen sollte, die notwendige Versuchskleidung fuer die Erfrierungs experi-mente zu beschaffen. (NO-287, Ankl. Bew. 100, R. 333). Brandt sandte Rascher eine Abschrift dieses Briefes. Am 13. Dezember 1942 gab Himmler seine Erlaubnis zur weiteren Durchfuehrung von Hoehen- und Erfrierungs-experimenten, speziell mit trockener Kaelte. Dieser Brief wurde von Brandt an Rascher, das Lhnenerbe und andere beteiligte SS-Aemter weiter-geleitet. (1612-PS, Ankl. Bew. 79, R. 229).

Am 28. Januar 1943 schickte der angeklagte Sievers an Brandt ein Me-morandum Raschers betreffend seine Unterredung mit Grawitz und dem An-geklagten Poppendick. Im Begleitschreiben erbat Sievers Brandts Meinung darueber, welche Haltung er und Rascher bezueglich ihrer Stellung Grawitz gegenueber einnehmen sollten.

Was Sievers erreichen wollte, war eine Intervention Brandts bei Himmler zu seinen Gunsten, da er von Grawitz wegen Einmischung in aerztliche Dinge kritisiert worden war.

Das Memorandum Raschers ueber die Konferenz mit Grawitz und Poppendick, das Brandt mit Sievers' Briefen erhielt, zeigt offensichtlich, dass weitere Erfrierungsversuche mit Trockenkaelte vorgenommen werden sollten, damit sie "einige hundert Paelle haben". Die Wichtigkeit von Brandts Stellung und der Rolle, die er bei den Erfrierungsexperimenten spielte, wird durch die Tatsache bewiesen, dass Grawitz waehrend dieser recht kurzen Diskussion Rascher zweimal sagte, dass er Brandt ueber seine Meinung hinsichtlich Raschers und seiner Zusammenarbeit mit ihm unterrichten werde. (NO-320, Ankl. Bew. 103, R. 335-339).

Brandt wurde von der Tatsache unterrichtet, dass Himmler Rascher die Erlaubnis gegeben hatte, weitere Erfrierungsexperimente in den Konzentrationslagern von Auschwitz und Lublin durchzufuehren. Am 9. Maerz 1943 unterrichtete er Grawitz dahingehend, dass Himmler eine solche Erlaubnis erteilt haette. (1615-PS, Ankl. Bew. 109, R. 350).

Am 14. Maerz schickte Rascher an Brandt eine Beschreibung seiner Konferenz mit Generaloberstabsarzt Hippke, dem Chef des Sanitaetswesens der Luftwaffe. Rascher wollte von der Luftwaffe zur SS versetzt werden, und Hippke versuchte, ihn zum Bleiben zu ueberreden. Auf dieser Konferenz besprach Rascher mit Hippke unter anderem die Moeglichkeit kombinierter Hoehen- und Erfrierungsversuche an lebenden Menschen. (NO-270, Ankl. Bew. 110, R. 351). Dass Brandt Rascher bei seinem Versuch sich zur SS versetzen zu lassen, unterstuetzte, wird durch eine Aktennotiz von Sievers vom 29. Januar 1943 bewiesen, die eine Konferenz mit

Brandt in dieser Sache anfuhrt. (NO-238, Ankl. Bew. 104, R. 340; NO-538, Ankl. Bew. 122, R. 379).

Am 4. April 1943 schrieb Rascher an Brandt, dass eine weitere Serie von Trockenklte-Versuchen an Hftlingen des Dachauer Konzentrationslagers whrend einer Periode sehr kalten Wetters durchgefhrt wurde. Die Versuchspersonen wurden im Freien 14 Stunden lang einer Klte von -6° C. ausgesetzt und hatten eine Innentemperatur von 25° C. erreicht. (NO-292, Ankl. Bew. 111, R. 354). Brandt besttigte den Empfang von Raschers Brief am 16. April und teilte ihm mit, dass Himmler seinen "Bericht ueber die Auskuehlungsversuche an Menschen an der Luft" erhalten habe. Er bat Rascher, sich mit dem Angeklagten Gebhardt, der diesen Bericht zum Studium von Himmler erhalten hatte, in Verbindung zu setzen. Eine Abschrift dieses Briefes wurde von dem Angeklagten Brandt an Gratz gesandt. (NO-241, Ankl. Bew. 113, R. 355). Eine Konferenz zwischen Rascher und dem Angeklagten Gebhardt fand am 14. Mai in Gegenwart des Angeklagten Fischer in Mohnlychen statt. Gebhardt besprach mit Rascher die Erfrierungsversuche und andere im Dachauer Konzentrationslager durchgefhrte Versuche und lud Rascher ein, mit ihm zusammenzuarbeiten. Rascher befrchtete, seine Unabhngigkeit zu verlieren und wandte sich an Sievers, damit er diese Angelegenheit in taktvoller Weise erledige, da Gebhardt ein sehr enger Freund Himmlers war. (NO-231, Ankl. Bew. 116, R. 360). Sievers seinerseits setzte sich am 22. Mai in dieser Angelegenheit mit Brandt in Verbindung und erbat Auskunft, ob Himmler in bezug auf Raschers Bettigungsgebiet und Arbeiten Gebhardt irgendwelche bestimmte Weisungen gegeben habe. Ausserdem erbat er Brandts Intervention zu Gunsten Raschers, indem er sagte:

"Ich lege diese Angelegenheit vertrauensvoll in ihre Haende, und bitte Sie vor allem, den Brief von Dr. Mascher ganz allein, nur zu Ihrer persoenlichen Unterrichtung zu verwenden, damit Dr. Mascher keinerlei Schwierigkeiten von SS-Gruf. Professor Dr. Gebhardt gemacht werden." (NO-267, Ankl. Bew. 117, R. 366).

Als Mascher Gebhardt in Hohenlychen besuchte, ermutigte ihn der letztere dazu, die Laufbahn eines Universitaetsdozenten zu ergreifen. (NO-231, siehe oben). Mascher folgte diesem Rat, und Brandt unterstuetzte ihn rueckhaltslos und arbeitete mit den angeklagten Sievers und Blome zusammen, um Mascher eine Ernennung zum Universitaetsdozenten zu verschaffen. (NO-229, Ankl. Bew. 118, R. 367; NO-290, Ankl. Bew. 121, R. 373). Dass Maschers Habilitationsschrift auf den Erfrierungs- und Hoeheexperimenten begruetet war, wird durch Maschers Memorandum ueber seine medizinische Ausbildung, welches er zum Zweck seiner Habilitation schrieb (NO-230, Ankl. Bew. 115, R. 356), und auch durch anderes Beweismaterial bewiesen. (NO-240, Ankl. Bew. 112, R. 354).

Brandts unge Verbindung mit Mascher wird weiterhin durch die Eintraege in Sievers' Tagebuch fuer 1944 bewiesen. Am 21. Januar besprach Sievers mit Brandt weitere Erfrierungsversuche Maschers. Nach Maschers Verhaftung hatte Brandt Besprechungen mit Sievers am 18. und 28. April, welche offensichtlich sich mit Mitteln und Wegen, ihm zu helfen, befassen. (3546-PS, Ankl. Bew. 123, R. 382).

Die Berichte ueber Maschers Erfrierungsexperimente, die alle durch Brandts Haende gingen, zeigen kristallklar die Ungehoerlichkeit der begangenen Verbrechen. Die Verteidigung sucht Zuflucht in der Behauptung, dass nur ein Arzt diese Berichte verstehen koenne. Nichts koennte von der Wahrheit weiter entfernt sein.

D. Gasexperimente (Anklageschrift, Ziffer 6 (D)).

Von November 1942 bis Sommer 1944 wurden in dem Konzentrationslager Natzweiler unter der Leitung von Professor Hirt von der Universität Strassburg Experimente zur Bestimmung der wirksamsten Behandlung von durch Senf-(Lost)-Gas verursachten Wunden durchgeführt. In Bezug auf den verbrecherischen Charakter dieser Versuche sei auf den Schriftsatz gegen den Angeklagten Sievers verwiesen.

Wie bei den Kälte- und Höhenversuchen (siehe oben) offenbart Rudolf Brandts eidesstattliche Erklärung vor der Verhandlung über das Lost-Gas sein Wissen von diesen Experimenten. In dieser eidesstattlichen Erklärung gab Brandt zu, dass die Versuchspersonen Konzentrationslagerinsassen waren, die sich nicht freiwillig meldeten, und dass einige von ihnen infolge der Experimente starben. (NO-372, Ankl. Bew. 252, R. 1008). Dokumentarischer Beweis in den Akten zeigt uobordies klar seine Zusammenarbeit mit den Angeklagten Karl Brandt und Sievers, mit Hirt, Grawitz, Wimmer und anderen im Rahmen dieser Experimente.

Am 7. Juli 1942 erliess Himmler einen Befehl an den Angeklagten Sievers, dass die Gesellschaft Ahnenorbe ein Institut fuer wehrwissenschaftliche Zweckforschung errichten sollte. Es sollte "die Forschungen des SS-Hauptsturmführers Professor Dr. Hirt in jeder nur moeglichen Weise unterstützen und alle einschlaegigen Forschungen und Arbeiten in gleicher Weise foerdern." (NO-422, Ankl. Bew. 33, R. 136). Hirt wurde im Ahnenorbe Abteilungsleiter, und seine verbrecherische Taetigkeit wurde von Brandt und Sievers namens Himmlers unterstützt.

Am 2. Juni 1942 sandte Sievers einen Bericht Hirts über seine Versuche betreffend die Gaswundenbehandlung mit

Vitaminen an Brandt. Hirt erklärte, dass er wegen der Offensive gegen Frankreich Experimente an lebenden Menschen nicht habe vornehmen können, aber er wolle solche Experimente zur Feststellung der Schutzwirkung der Vitaminbehandlung ausführen. (NO-097, Ankl.Bow.260, R.1022).

Sievers Aktenvermerk an Brandt vom 3. November 1942 betreffend die Vorbereitung der Lost-Gas-Versuche enthüllt die Tatsache, dass Hirt mit der Ausführung dieser Experimente an Konzentrationslagerinsassen in Natzweiler beauftragt war. In dieser Mitteilung beklagt sich Sievers, dass die Lagerbeamten in Natzweiler nicht das rechte Verständnis bei der Errichtung einer Versuchsstation für Hirt gezeigt hätten. Es sei sogar vorgeschlagen worden, dass die Versuchspersonen bezahlt werden müssten. Das Memorandum schloss wie folgt: "An SS-Obersturmbannführer Dr. R.Brandt zur Kenntnisnahme unter Bezugnahme auf unsere heutige Besprechung mit der Bitte, sich kameradschaftlich dafür zu verwenden, dass die erforderlichen Voraussetzungen in Natzweiler geschaffen werden." (NO-098, Ankl.Bow. 263, R.1028). Am 3. Dezember 1942 erwiderte Brandt, dass er mit Hirt gesprochen habe und dass die Mängel, über die Sievers geklagt habe, behoben wurden. Er informierte Sievers: "Sollte ein nochmaliges Einschalten meinerseits notwendig sein, geben Sie mir bitte Nachricht". (NO-092, Ankl.Bow. 180, R.702).

Bei den dort ausgeführten Experimenten arbeiteten Aerzte der Luftwaffe mit Hirt. (Holl, R.1059, 1061). Oberarzt Wimmer, ein Stabsarzt der Luftwaffe, war Hirts Hauptmitarbeiter. Wimmer war zeitweise Hirts Anatomischem Institut an der Universität Strassburg zugeteilt gewesen.

Am 24. August 1942 - vor dem tatsächlichen Beginn der Experimente - ersuchte Brandt den Chef des SS-Hauptamtes um Intervention, damit Wimmer zwecks Ausführung der Experimente weiterhin Hirt zur Verfügung stehe. (NO-196, Ankl.Bow.261, R.1027). Im April 1943 sollte Wimmer zu einer anderen Einheit versetzt werden. Sievers wandte sich an Brandt und bat um sein sofortiges Eingreifen, da "Dr. Wimmers Versetzung das Aufheoren der Gasversuche in Natzweiler und Strassburg bedeutet". Sievers betonte, dass "die von Dr. Wimmer infolge seiner grossen Versuchsreihen gesammelten praktischen Kenntnisse nur von ihm (Hirt) verwertet werden koennen", und befuerwortete die zeitweilige Versetzung Wimmers zur waffen-SS. Brandt entsprach dem Ersuchen Sievers' und trat am 27. Mai 1943 an das Sanitaetsamt der SS unter dem Angeklagten Genzken mit dem Ersuchen heran, Wimmer sobald wie moeglich zur Waffon-SS zu versetzen, da es zweifelhaft sei, ob ohne ihn Hirts Experimente fortgesetzt werden koennten. (NO-194, Ankl.Bow.265, R.1033). Er trat auch am 3. Juni telefonisch und am 9. Juni brieflich an Goernert, Goerings personlichen Berater, heran, um dafuer zu sorgen, dass Wimmer "fuer seine kriegswichtigen Gas-Experimente" weiterhin Hirt zur Verfügung stehen sollte. (NO-195, Ankl.Bow. 266, R. 1033).

Zu Beginn des Jahres 1944 erstatteten Hirt und Wimmer einen gemeinsamen Bericht ueber den "Behandlungsvorschlag fuer Kampfstoffverletzungen mit Lost". (NO-099, Ankl.Bow. 268, R.1035). Dieser Bericht beweist eindeutig, dass von Hirt und Wimmer Experimente an lebenden Menschen ausgefuehrt wurden. Es ist wichtig festzustellen, dass der Bericht von schweren, mittleren und leichten Wunden durch Lost spricht.

Brandt erhielt am 11. April 1944 von dem Angeklagten Sievers eine Abschrift dieses Berichtes. (NO-015, Ankl.Bow.275, R. 1039).

An ungefaehr 220 russischen, polnischen, tschechischen und deutschen Haeftlingen wurden Gasversuche angestellt, und ungefaehr funfzig starben davon. Sie meldeten sich nicht freiwillig. (Holl, R. 1052, 1057). Siehe auch die Zeugenaussage von Nalos. (Niederschrift vom 30. Juni).

Weiterer Beweis fuer Brandts Teilnahme an den Gas-Experimenten findet sich in dem Tagebuch Sievers' fuer das Jahr 1944. (3546-18, siehe oben, Eintrag vom 4. Maerz).

E. Flockfieberexperimente (Anklageschrift, Ziffer 6 (J)).

In Bezug auf die von dem Stabsarzt Professor Eugen Haagen im Konzentrationslager Natzweiler ausgefuhrten Flockfieberexperimente wird auf die Schriftsaetze der Anklagebehörde gegen die Angeklagten Schroeder und Rose Bezug genommen.

Brandts Kenntnis der von Haagen im Konzentrationslager Natzweiler ausgefuhrten Flockfieberexperimente geht klar aus Aussagen in seiner eidesstattlichen Erklaerung hervor. (NO-370, Ankl.Bow. 294, R. 1383-4). Die Beweisaufnahme hat weiterhin gezeigt, dass Brandt dem Angeklagten Sievers bei der Belieferung Haagens mit 400 Konzentrationslagerhaeftlingen fuer diese Art Versuche behilflich war. Brandt gab in seiner eidesstattlichen Erklaerung zu, dass diese Versuchspersonen sich nicht freiwillig meldeten. Haagen selbst bezeugte das gleiche. (R.9541-2). Die Aussage des Zeugen Georg Eirtz beweist, dass Haagen seinen Impfstoff im Sommer 1943 in Schirmeck, einem Zweiglager des Natzweiler Konzentrationslagers, gepruft hatte. Ungefaehr 20 polnische Haeftlinge wurden bei diesen Experimenten verwandt, und zwei von den Versuchspersonen starben.

(R. 1293). Diese Zeugenaussage wird bekräftigt durch die Notizen ueber Haagens Experimente, die von Frä. Grodel, seiner Assistentin, gemacht wurden. (NO-3852, Ankl.Bew. 521, R. 9660). Die Zeugin Edith Schmidt legte ueber eine andere von Haagen im Sommer 1944 in Natzweiler ausgefuehrte Versuchsreihe Zeugnis ab. An ungefaehr 200 Haeftlingen wurden Versuche angestellt, und ungefaehr fuenfzig der Versuchspersonen - einschliesslich Kontrollpersonen - starben. Angehoerige aller Nationalitaeten, aber vorwiegend Zigeuner, wurden als Versuchspersonen verwandt. (Schmidt, R.1370-1; Haagen, R. 9607). Siehe auch die Zeugenaussage von Nalos. (Niederschrift vom 30. Juni).

Brandts Mitwirkung an Haagens Experimenten erhellt aus dokumentarischem Beweismaterial in den Akten. Am 19. Mai 1944 schrieb der Angeklagte Sievers in Verbindung mit der Beschaffung von 200 Konzentrationslagerhaeftlingen fuer Haagens Fleckfieberexperimente an Pohl. Dieser Brief zeigt, dass Pohl schon im Herbst 1943 auf Sievers Ersuchen 100 geeignete Konzentrationslagerhaeftlinge nach Natzweiler geschickt hatte. Eine Abschrift dieses Briefes wurde Brandt zur Kenntnismahme zugeschickt. (NO-008, Ankl.Bew. 304, R. 1398). Brandt berichtete ausserdem am 6. Juni 1944 Sievers und teilte mit, dass Brandt Himmler unterrichtet habe, "da ihm die Sache wichtig genug erschien". (NO-009, Ankl.Bew. 305, R. 1400). Brandt haette sicherlich nicht entscheiden koennen, ob die Sache wichtig genug sei oder nicht, wenn er nicht ueber Haagens Fleckfieberversuche vollkommen orientiert gewesen waere.

F. Seewasserversuche (Anklageschrift, Ziffer 6 (G)).

Experimente zur Trinkbarmachung von Seewasser wurden im Sommer 1944 im Dachauer Konzentrationslager angestellt.

R. BRANDT

Eine Beschreibung dieser Versuche wird im Schriftsatz der Anklagebehörde gegen den Angeklagten Schroeder gegeben.

Brandt legt in seiner eidesstattlichen Erklärung beträchtliche Kenntnisse darüber an den Tag warum, wo und von wem diese Experimente ausgeführt wurden. Es ist bezeichnend, dass er zugab, dass "zu erwarten sei, dass einige der Häftlinge infolge der Experimente sterben würden". Er wusste nicht, ob Todesfälle vorkamen, aber es ist durch die Aussage des Zeugen Tschefenig bewiesen, dass mindestens eine der Versuchspersonen infolge der Seewasserexperimente starb. (R. 9339-40).

Die Mitwirkung Brandts an den Seewasserexperimenten wird durch dokumentarisches Beweismaterial belegt. Brandt erhielt das Protokoll der Seewasser-Konferenz vom 20. Mai 1944, wie eine handschriftliche Bemerkung auf der ersten Seite des Berichtes klar zeigt. Auf dieser Konferenz wurde erklärt:

"Chef des Sanitätswesens ist davon überzeugt, dass bei dem Borka-Verfahren nach dem Genuss des Borkatits nach spätestens 6 Tagen gesundheitliche Schäden zu erwarten sind, welche eine dauernde gesundheitliche Schädigung nach sich ziehen und nach Ansicht von Unterarzt Dr. Schaefer nach spätestens 12 Tagen mit tödlichem Ausgang enden wird. Äussere Erscheinungen sind durch Entwässerung, Durchfall, Krämpfe, Halluzinationen und endlichem Tode zu erwarten.

"Da nach Ansicht Chef des Sanitätswesens bei dieser Versuchsreihe mit dauernden gesundheitlichen Schädigungen bzw. dem Tode der Versuchsperson zu rechnen ist, sollen als Versuchspersonen Leute genommen werden,

welche seitens des Reichsfuehrers-SS zur Verfuegung gestellt worden." (NO-177, Ankl.Bow. 133, R. 479).

Am 28. Juni 1944 schrieb Grawitz an Himmler, dass der Angeklagte Gobhardt, zusammen mit Gluecks und Nabo, den Experimenten zugestimmt und dass Nabo die Verwendung von Zigeunern fuer diesen Zweck vorgeschlagen habe. Himmler gab dem seine Zustimmung mit der Bestimmung, dass drei jugoslawische einer anderen Rasse den Versuchspersonen zu Kontrollzwecken hinzugefuegt werden sollten, da die Zigeuner mit den Deutschen nicht zu vergleichen seien. (NO-179, Ankl. Bow. 135, R. 485). Dass Brandt von dieser Entscheidung Kenntnis hatte, wird durch seinen Brief vom 8. Juli erwiesen, in dem er Grawitz entsprechenden Bescheid gab. Am 20. Juli hatte der Angeklagte Boiglboeck mit Dr. Floetner, Raschers Nachfolger, in Dachau eine Vorkonferenz ueber die Seewasserversuche. Sievers berichtete Grawitz ueber diese Konferenz und sandte Brandt eine Abschrift des Briefes zur Kenntnisnahme. (NO-182, Ankl.Bow. 137, R. 481).

Diese Tatsachen beweisen, dass Brandt in voller Erkenntnis der verbrecherischen Natur willig an den Seewasserexperimenten mitwirkte.

G. Andere Experimente.

Wenn die Anklagebehoerde die Verantwortung fuer die Malaria-, epidemische Gelbsucht- und Sulfonamidversuche dem Angeklagten Rudolf Brandt zur Last legt, so stuetzt sie sich hauptsaechlich auf dessen Amtsstellung.

Malaria-Experimente wurden von Dr. Claus Schilling von 1942 bis 1945 im Dachauer Konzentrationslager ausgefuehrt. Mehr als tausend Haeftlinge wurden bei diesen Experimenten verwundet, und mehrere hundert starben infolgedessen. Himmler gab der Vornahme

dieser Experimente durch Schilling seine Erlaubnis. (NO-856, Ankl.Bow. 125, R. 392). Da die Experimente unter dem Schutze Himmlers im grossen Umfang jahrelang vor sich gingen, kann man nicht folgern, dass Brandt nichts von ihnen wusste. Brandts enge Beziehungen zu Rascher, der selbst in Dachau Experimente an Konzentrationslagerinsassen ausfuhrte (siehe oben), und zu Sievers, der Dachau oft besuchte und mit Schilling zusammenarbeitete (siehe den Schriftsatz der Anklagebehörde gegen den Angeklagten Sievers), machen es sicher, dass er davon Kenntnis hatte. In Bezug auf die Malaria-Experimente wird auf den Schriftsatz der Anklagebehörde gegen den Angeklagten Rose verwiesen.

Brandts Kenntnis von den Sulfonamid-Experimenten wird durch die Tatsache erwiesen, dass sein Büro am 9. September 1942 Gebhardts vorläufigen Bericht über diese Experimente erhielt. (NO-2734, Ankl.Bow. 473, R. 5622). Der Bericht zeigt klar, dass Sulfonamidversuche an Häftlingen des Ravensbrücker Konzentrationslagers ausgeführt wurden. Es wird klar zum Ausdruck gebracht, dass Gasgangraen künstlich hervorgerufen wurde, dass Hobelspane, Odema malignum und Erde verwandt wurden, um den Schlachtwundinfektionen ähnliche Infektionen hervorzurufen, und dass einige der Versuchspersonen zu Kontrollzwecken unbehandelt blieben. Kurzum, dieser Bericht gibt ein vollkommenes Bild von den durch Gebhardt ausgeführten Sulfonamid-Experimenten.

Rudolf Brandts Vertrautheit mit den Versuchen über epidemische Gelbsucht geht aus seiner eidesstattlichen Erklärung hervor. (NO-371, Ankl.Bow. 186, R. 733). In dieser eidesstattlichen Erklärung gab Brandt zu, dass er von der Tatsache, dass Konzentrationslagerinsassen für diese Experimente verwandt und einige der unfreiwilligen Versuchspersonen infolgedessen starben, Kenntnis gehabt habe.

In einem Brief vom 16. Juni 1943 gab Himmler seine Zustimmung zu der Verwendung von 8 Juden aus der polnischen Widerstandsbewegung bei den Versuchen ueber epidemische Gelbsucht im Konzentrationslager Sachsenhausen. Brandt schickte wohl eine Abschrift dieses Briefes. (NO-011, Ankl.Bew. 188, R. 737). Bei seinem Ersuchen um Versuchspersonen, das notwendigerweise zu Brandts Kenntnis gelangte, hatte Grawitz ausdrucklich betont, dass "mit Todesfaellen zu rechnen sei". (NO-010, Ankl.Bew. 187, R. 735). Dass diese Versuche von Dohmen im Konzentrationslager Sachsenhausen ausgefuehrt wurden und dass einige der Versuchspersonen starben, wurde von Brandt in seiner eidesstattlichen Erklaerung zugegeben. (NO-371, siehe oben). Sogar der Entlastungszeuge Gutzeit, der mit Dohmen zusammenarbeitete, gab zu, dass Dohmen in Sachsenhausen taetig war.

III. MORD UND MISSEHANDLUNG POLNISCHER STAATSGEHOERIGER.

(Anklageschrift, Ziffer 8).

Wegen einer Beschreibung des verbrecherischen Charakters der Ausrottung polnischer Staatsangehoeriger, die angeblich an unheilbarer Tuberkulose litten, wird auf den Schriftsatz der Anklagebehoerde gegen den Angeklagten Blome verwiesen.

Brandt empfing am 3. Mai 1942 von Koppe, einem Hocheron SS- und Polizeifuehrer in Posen, einen Brief, einen Vorschlag Greisers ueber die Ausrottung tuberkulooser Polen betreffend. Dieser Bericht zeigt klar, dass beabsichtigt war, viele Tausende tuberkulooser Polen einer "Sonderbehandlung" zu unterwerfen. (NO-247, Ankl.Bew.197, R.748). Dass unter "Sonderbehandlung" Ausrottung zu verstehen war, geht nicht nur aus dem Inhalt von Koppes Brief hervor, sondern wurde auch von dem Angeklagten Blome zugegeben. (R.4791). Brandt bestaetigte den Empfang dieses Briefes

am 14. Mai und benachrichtigte Koppe, dass er Greisers Vorschlag an den Chef der Sicherheitspolizei weitergegeben habe, sodass der letztere die Angelegenheit mit Greiser selbst in Angriff nehmen koenne. (NO-248, Ankl.Bow. 198, R. 749). Dieser "Vorschlag" Greisers wurde von ihm mit weiteren Einzelheiten in einem Bericht von Himmler vom 1. Mai 1942 ausinandergesetzt, in dem er, zusammen mit dem Angeklagten Blome, die direkte Ausrottung von annaehernd 35.000 tuberkuloosen Polen - um diese angebliche Ansteckungsquelle fuer die deutschen Siedler im Warthogau aus der Welt zu schaffen - befuerwortete. (NO-246, Ankl.Bow. 196, R. 747).

Greiser selbst trat am 25. Juni 1942 in den herzlichsten Ausdruecken an Brandt heran, um ihn an den hochvertraulichen Bericht des Chefs des Reichssicherheitshauptamtes betreffend die "Sonderbehandlung" der tuberkuloosen Polen, der Brandt gesandt worden war, zu erinnern. Greiser nahm an, dass der "ganze Vorgang" Brandt "kurzhaendig" uebergeben worden sei. (NO-252, Ankl.Bow. 200, R. 750-1).

Am 27. Juni 1942 teilte Himmler Greiser mit, dass er den Vorschlag, billige tuberkuloose Polen und Staatenlose polnischer Herkunft, die in der Provinz Warthogau wohnten und an offener Tuberkulose litten, zwecks "Sonderbehandlung" zu uebergeben. Abschriften dieses Briefes von Himmler wurden vom Angeklagten Rudolf Brandt an Koppe und an das Reichssicherheitshauptamt geschickt. (NO-244, Ankl.Bow. 201, R. 752).

Brandt gab in seiner eidesstattlichen Erklaerung zu, dass mindestens ein Teil der tuberkuloosen Polen ausgerottet wurde, waehrend die anderen in Todeslager verbracht wurden, wo man

sie sterben liess. (NO-441, Ankl.Bew. 205, R. 760). Brandt versuchte, diese eidesstattliche Erklärung anders auszulegen, wenn nicht sogar zurückzunehmen, indem er bezugte, dass er die Aussagen auf Grund ihm in der Voruntersuchung gezeigter Dokumente machte. Er betonte jedoch, dass er darauf bestanden hatte, dass die Fassung eines Satzes geändert werde. Dieser Satz lautete ursprünglich: "..... wurden als Resultat der von Blome und Greiser unterbreiteten Vorschläge zwischen 8.000-10.000 Töten ausgerottet". Er änderte den Ausdruck "8.000-10.000" in "zahlreiche". (R. Brandt, R. 4891, 4953, vgl. R. 761). Dies ist an sich selbst ein Beweis, dass Brandt seine Aussagen auf Grund seiner als enger Mitarbeiter Himmlers erworbenen Kenntnisse machte. Die Dokumente zeigen keine Föschung "zahlreicher" Töten. Es liegt kein Dokument vor, bzw. es ist keines im Besitze der Anklagebehörde, das eine Grundlage für diese Behauptung liefern würde. Es ist daher klar, dass Brandts Aussage vor der Verhandlung auf seiner eigenen Kenntnis der Dinge beruht und ihr volles Gewicht beigelegt werden muss.

IV. SKELETTSAMMLUNG (Anklageschrift, Ziffer 7).

Auf Ersuchen Rudolf Brandts legte der Angeklagte Siemers am 9. Februar 1942 ihm einen Bericht Dr. Hirts von der Universität Strassburg über das Erwünschensein einer Sammlung jüdischer Skelette vor. (NO-085, Ankl.Bew. 175, R. 695). In diesem Bericht befürwortete Hirt die direkte Ermordung "jüdisch-bolschewistischer Kommissare" zwecks Erlangung einer solchen Sammlung. Er erklärte:

"In den jüdisch-bolschewistischen Kommissaren, die ein widerliches aber charakteristisches Untermenschentum verkörpern, haben wir die Möglichkeit, ein greifbares wissenschaftliches Dokument zu erwerben, indem wir uns ihre Schädel sichern.

Die praktische Durchführung der reibungslosen Beschaffung

und Sicherstellung dieses Schaedelmateriels geschieht am zweckmaessigsten in Form einer Anweisung an die Wehrmacht, saemtliche juedisch-bolschewistische Kommissare in Zukunft lobend sofort der Feld-Polizei zu uebergeben."

Diese Formationen sollten einer besonderen Stelle Bericht erstatten, welche. Spezialisten aussenden wuerde, um photographische Aufnahmen und anthropologische Messungen vornehmen zu lassen und die Herkunft, das Geburtsdatum und andere Personalangaben festzustellen. Hirt erklarte ferner:

"Nach dem danach herbeigefuehrten Tode des Juelen, dessen Kopf nicht verletzt werden darf, trennt er den Kopf vom Rumpf und sendet ihn, in eine Konservierungsfluessigkeit gebettet, in eigens zu diesem Zwecke beschaffenen und gut verschliessbaren Blechbehaeltern zum Bestimmungsort. In Band der Lichtbildaufnahmen, der Masse und sonstigen Angaben des Kopfes und schliesslich des Schaedels koennen dort nun die vergleichenden anatomischen Forschungen, die Forschungen ueber Rassenzugehoerigkeit, ueber pathologische Erscheinungen der Schaedelform, ueber Gehirnform und -grosse und ueber vieles andere mehr beginnen. Fuer die Aufbewahrung und die Erforschung des so gewonnenen Schaedelmateriels waere die neue Reichsuniversitaet Strassburg ihrer Bestimmung und ihrer Aufgabe gemass die geeignetste Staette." (Unterstreichungen hinzugefuegt).

Am 27. Februar 1942 informierte Brandt Sievers, dass Himmler Hirts Arbeit unterstuetzen und alles ordentliche ihm zur Verfuegung stellen wuerde. Brandt ersuchte Sievers, Hirt Clementsprechen! zu unterrichten und wieder ueber Hirts Arbeiten Meldung zu erstatten. (NO-090, Ankl.Bow.176, R.699).

Hirts moerderischer und unmenschlicher Plan wurde in einer Weise ausgefuehrt, die nur wenig von der Anregung in seinem vorlaufigen Bericht abwich. (NO-085, siehe oben). Der Beweis wurde erbracht, dass beschlossen wurde, die ganzen Skelette anstatt der blossen Schaedel zu konservieren. Am 2. November 1942 ersuchte Sievers Brandt, bei dem Reichssicherheitshauptamt die noetigen Verkehrungen zur Lieferung von 150 juedischen Haftlingen zwecks Ausfuehrung dieses Planes zu treffen. (NO-086, Ankl.Bow. 177, R.699). Am 6. November informierte Brandt Adolf Eichmann, den Chef des Amtes

IV-B-4 (Juedische Angelegenheiten) des Reichssicherheitshauptamtes, alles was fuer die Vervollstaendigung der Skelettsammlung notwendig sei, Hirt zur Verfuegung zu stellen. (NO-089, Ankl.Bew. 179, R. 702).

Aus dem Briefe Sievers' an Eichmann vom 21. Juni 1943 ist ersichtlich, dass der SS-Hauptsturmfuehrer Bogor, Mitarbeiter der Gesellschaft Ahnenerbe, die Vorarbeiten zur Zusammenbringung der Skelettsammlung im Konzentrationslager Auschwitz an 79 Juden, 30 Juedinnen, 2 Polen und 4 Asiaten ausfuhrte. In diesem Brief erklarte Sievers, dass Bogor wegen Seuchengefahr im Lager seine Arbeit unterbrechen musste. Sievers ersuchte um die Ueberfuhrung der Insassen, an denen Bogor diese Arbeit ausgefuehrt hatte, ins Konzentrationslager Natzweiler, weil in Auschwitz weitere Arbeiten wegen der Infektionsgefahr unmoglich seien. Besondere Unterbringungsmoeglichkeit sollte fuer die 30 Frauen "voruebergehend" im Konzentrationslager Natzweiler beschafft werden. Der Angeklagte Brandt empfing eine Abschrift dieses Briefes am 22. Juni. (NO-087, Ankl.Bew. 181, R. 702).

Die Aussage des Lagerkommandanten des Konzentrationslagers Natzweiler, des SS-Hauptsturmfuehrers Josef Kramer, enthueilt, dass annaehernd 80 Haeflinge des Auschwitzer Konzentrationslagers, darunter auch Frauen, nach dem Konzentrationslager Natzweiler geschafft und dort Anfang August 1943 auf Ersuchen Hirts mit Gas getoetet wurden. Zu diesem Zweck war eine besondere Gaskammer gebaut worden. Die Leichen der Opfer wurden in drei Ladungen an Hirts Anatomisches Institut an der Universitaet Strassburg geschickt. (NO-807, Ankl.Bew. 185, R. 732). Dieses Beweismaterial wird durch die Aussage des Zeugen Henrypierre bestaetigt. Er bezeugte, dass

anfangs August 1943 Bong, der erste Anatomiedienster des Anatomischen Institutes, von Hirt den Befehl erhielt, die Behälter im Keller des Institutes fuer ungefuehr 120 Leichen vorzubereiten. In Zwischenraeumen von ein paar Tagen kamen drei Ladungen Leichen - 30 weibliche, 30 maennliche, 26 maennliche - in Lastwagen von einem unbekannten Orte an. Alle diese Opfer waren Juden. Diese Leichen wurden im Keller des Anatomischen Institutes in den von Bong vorbereiteten Behaelttern eingelagert. (Henripierre, R. 712-4). Siehe auch die oidesstattliche Erklaerung von Wagner. (NO-881, Ankl.Bew. 280, R. 1074). Beger wurde angewiesen, Gipsabguesse der Opfer vorzubereiten. (3546-13, Ankl.Bew. 123, R. 382, Eintrag vom 2. Februar 1944). Anfang September 1944, als die alliierten Armeen Strassburg befreiten, trat Sievers an den Angeklagten Brandt mit einem Ersuchen um Anweisungen heran, was mit den juedischen Leichen geschehen solle, die noch in den Behaelttern im Keller des Anatomischen Institutes eingelagert waren. Er teilte mit, er koenne die Leichen "entfleischen" und damit unkenntlich machen, aber in diesem Falle wuerde ein Teil der Arbeit vergeblich gewesen sein, und "es waere ein grosser wissenschaftlicher Verlust fuer diese ganzzuartige Sammlung, weil danach Hermitabguesse nicht mehr moeglich waeren. Skelettsammlung als solche nicht auffaellig. Weichteile wuerden deklariert als bei Uebernahme Anatomie durch Franzosen hinterlassene alte Leichenreste und zur Verbrennung gegeben." Sievers ersuchte um eine Anweisung an Brandt, ob die Sammlung zu erhalten, teilweise aufzuloesen oder im ganzen aufzuloesen sei. (NO-882, Ankl.Bew. 182, R. 704).

Aus der Benachrichtigung des SS-Hauptsturmführers Berg an Brandt ist ersichtlich, dass zuerst beschlossen wurde, das Beweismaterial fuer diese brutalen Verbrechen zu zerstören. Aber infolge einer zeitweiligen Verbesserung der militärischen Lage wurde dieser Beschluss wieder rückgängig gemacht. Sievers teilte Berg am 21. Oktober 1944 mit, dass in Erfüllung eines Befehls, den er vorher erhalten hatte, die Auflösung der Sammlung durchgeführt worden sei. Der Befehl zur Zerstörung der Sammlung wurde von Baumert, einem Untergebenen Brandts, ausgegeben. (NO-091, Ankl.Bew. 183, R. 705). Das war aber nicht geschehen. Hirt hatte Berg und seinem Gehilfen Meyer befohlen, die 86 Leichen zu sezieren und sie im Strassburger Krematorium verbrennen zu lassen, aber diese zwei Männer allein konnten diese ungeheure Aufgabe nicht ausführen. Eine Anzahl Leichen blieb unseziert und wurde in den Behältern zusammen mit teilweise sezierten Leichen belassen, um den Eindruck zu erwecken, als ob sie fuer normale anatomische Forschungsarbeiten benutzt worden waeren. (HenryPierre, R. 715 ; NO-881, siehe oben).

Lobhafter als Zeugen und Dokumente schildern die von den französischen Behörden nach der Befreiung Strassburgs aufgenommenen Bilder und die Bilder der Gaskammern im Konzentrationslager Natzweiler, wo die Opfer der jüdischen Skelettsammlung ermordet wurden, diesen grausigen Massenmord. (NO-483, Ankl.Bew. 184, R. 724; NO-807, siehe oben).

Die bedeutsame Natur von Brandts Anteil an den in der Anklageschrift ihm zur Last gelegten Verbrechen ist in dem oben skizzierten Beweis in typischer Weise dargestellt. Hirts ursprünglicher Vorschlag wurde von Sievers an Brandt geschickt, der Himmels Zustimmung einholte. Darnach wurden alle Einzelheiten, fuer die

Himmler augenscheinlich keine Zeit hatte, von Brandt und Sievers erledigt. In der Tat, wenn Himmler auf der Anklagebank saesse, wuerde er uns sagen, dass er keine Ahnung davon hatte, dass diese Sammlung Moritaten im Gefolge haben wuerde, und dass er dachte, man wuerde tote Soldaten nehmen. Eine solche Entschuldigung waere nicht glaubhafter als Brandts Lueserode. Er wusste von dem Tage an, wo er Hirts Bericht empfing, dass dies Massennord war. Er veranlasste die Lieferung der Opfer von Auschwitz. Er ordnete die Uebersteuerung der Sammlung an. Brandts Schuld ist um ein Vielfaches groesser als die des brutalen und gefuehllosen Aramers, der persoenlich die Juden in Natzweiler vergaste.

V. SCHLUSS.

Nichts kann zu Gunsten des Angeklagten Rudolf Brandt angefuehrt werden. Es wird nicht bestritten, dass er an jeder der in der Anklageschrift erhobenen Anklagen - ausser der Euthanasie - taetig mitwirkte. Er war oberster verwaltungsmaessiger Helfer Himmlers. Waehrend die grundlegenden Entscheidungen von Himmler getroffen wurden, sorgte Brandt dafuer, dass sie ausgefuehrt wurden. Dass er kein so wichtiger Mann wie Himmler war, kann in keiner Weise ihn von der Schuld freisprechen oder diese mildern. Sein Verbringen ist dasselbe wie das der meisten Verbrecher, die in Nuernberg vor Gericht stehen, naemlich dass Hitler und Himmler die ausschliesslichen Traeger aller Schuld waren. Wenn das Prinzip der relativen Schuld irgendeine Stelle hat in dem Prozess gegen einen Mann, der mit der Ermordung von Tausenden von Menschen in Verbindung steht - und die Anklagebehoerde sagt: es hat keine Stelle - dann hebt sich die Bedeutsamkeit von Brandts Stellung und seinem verbrecherischen Werk deutlich ab von der des Lagerkommandanten von Dachau und vieler seiner Untergebenen, die schon lange

wegen ihrer Teilnahme an einigen dergleichen wie in dieser Anklageschrift zur Last gelegten Verbrechen zum Tode verurteilt worden sind.

Die Lehre vom Befehl eines Vorgesetzten trifft auf Brandt nicht zu.

Die Anklagebehörde unterstellt, dass das Beweismaterial ergibt, dass Rudolf Brandt Haupttäter, Teilnehmer, Anstifter, Vorschubleistender war, seine Zustimmung gab und in Verbindung stand mit Plänen und Unternehmen, die die Durchführung medizinischer Versuche ohne Zustimmung der Betroffenen zum Gegenstand hatten, und Mitglied einer Organisation oder Gruppe war, die in Verbindung stand mit diesen Versuchen, in deren Verlauf Mordtaten, Brutaltaten, Grausamkeiten, Folterungen, Greueltaten und andere unmenschliche Handlungen, die Ermordung und unmenschliche Behandlung von Tausenden von tuberkulösen Polen und die Ermordung von nicht weniger als 86 Juden zum Zwecke einer Skelettsammlung begangen wurden. Seine Schuld im Sinne der Punkte I, II, III und IV der Anklageschrift ist erwiesen.

"Ende"

Ich, Fred Lax, # X 046207, bestätige hiernit, dass ich durchaus vertraut mit der englischen und deutschen Sprache bin, und dass das Vorstehende eine wahrheitsgemäße und richtige Übersetzung des Dokumentes "Rudolf Brandt" darstellt.

Munich, 11. Juli 1947

Fred Lax
X 046207

MILITÄERGErichtshof No. I

Fall No. 1

ZUSAMMENFASSENDEr SCHRIFTSATZ
DER VEREINIGTEN STAATEN VON AMERIKA
GEGEN
FRITZ FISCHER UND HERTA OBERHEUSER

Muernberg,
den 16. Juni 1947

James M. McHenry
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

Fuer:

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War Crimes



EINFUEHRUNG

Unter Punkt I der Anklageschrift werden die Angeklagten Fischer und Oberheuser im wesentlichen beschuldigt, dass sie sich mit anderen Personen im Verfolg eines gemeinsamen Vorhabens zu einer Verschwörung und Uebereinkunft zusammengefunden haben, um medizinische Versuche an Versuchspersonen ohne deren Zustimmung vorzunehmen; unter Punkt II und III (Kriegsverbrechen und Verbrechen gegen die Menschlichkeit), dass sie Haupttaeter, Teilnehmer, Anstifter, Vorschubleistende gewesen sind, ihre Zustimmung gegeben und mit Plaenen und Unternehmen in Verbindung gestanden haben, bei denen es sich um die Vornahme von medizinischen Versuchen an Versuchspersonen gegen deren Willen handelte; unter Punkt IV, dass Fischer nach dem 1. September 1939 Mitglied der SS war, einer vom Internationalen Militaergerichtshof als verbrecherisch erklarten Organisation.

Die als Kriegsverbrechen und Verbrechen gegen die Menschlichkeit anerkannten Handlungen sind in den Absatzen 1 (b) und (c) des Artikels II des Kontrollratgesetzes Nr.10 auseinandergesetzt. Die Mitgliedschaft bei einer vom Internationalen Militaergerichtshof als verbrecherisch erklarten Organisation wird im Absatz 1 (d) desselben Artikels als Verbrechen bezeichnet. Die Kennzeichen der Straffaeligkeit sind in Artikel II, Absatz 2 des Kontrollratgesetzes Nr.10 dargelegt.

I. STELLUNG UND VERANTWORTUNG

Der Angeklagte Fischer trat der Allgemeinen SS im Februar 1934 und der NSDAP im Jahre 1939 bei. Im letzteren Jahr trat er der Waffen-SS bei und wurde dem SS-Verband im Krankenhaus Hohenlychen als ein dem Angeklagten Gebhardt unterstellter Arzt zugeteilt. Im Juni 1940 wurde er zum SS-Regiment Leibstandarte "Adolf Hitler" versetzt und kehrte im selben Jahr als Assistenzarzt von Gebhardt nach Hohenlychen zurueck, wo er bis zum Mai 1943 blieb. Er diente dann sowohl an der Ost- als an der Westfront als Arzt

(Seite 2 des Originals)

und war, nachdem er im August 1944 verwundet worden war, Patient in Hohenlychen. Im Dezember 1944 wurde er der Charité in Berlin zugeteilt, kehrte aber wiederum im April 1945 als Gebhardts Assistent nach Hohenlychen zurück. In der Waffen-SS stieg er bis zum Sturmbannführer (Major) auf. (NO-559, Ankl.Bew.26, R.129; Fischer, R.4267-77).

Die Angeklagte Oberheuser trat dem Bund Deutscher Mädel (BDM) im Jahre 1935 bei und bekleidete den Rang einer "Blockleiterin". Im August 1937 wurde sie Mitglied der NSDAP. Sie war auch Mitglied des Nationalsozialistischen Ärztebundes. Sie meldete sich im Jahre 1940 freiwillig für die Stellung einer Lagerärztin an der Frauenabteilung des Ravensbrücker Konzentrationslagers und blieb dort bis zum Juni 1943. Sie bekam dann unter dem Angeklagten Gebhardt eine Stellung als Assistenzärztin am Krankenhaus Hohenlychen. (NO-683, Ankl.Bew.27, R.129-30; Oberheuser, R.5485).

II. PERSÖNLICHE TEILNAHME AN VERBRECHERISCHEN EXPERIMENTEN

Fischer und Oberheuser sind beschuldigt, an den Sulfonamid- und Knochen-, Muskel-, Nervenregenerations- und Knochenverpflanzungsversuchen, wie sie in den Absätzen 6 (E) und (F) der Anklageschrift im einzelnen auseinandergesetzt sind, teilgenommen zu haben. Fischer hatte auch von den Sepsis-Experimenten und von den Kälte-Experimenten Kenntnis, die im Konzentrationslager Dachau durchgeführt wurden. Die Beschuldigung gegen Oberheuser, dass sie an Unfruchtbarkeitsversuchen in Ravensbrücker (Anklageschrift, Absatz 6 (I)) teilgenommen habe, wird hiermit zurückgezogen.

A. Sulfonamid-Versuche (Anklageschrift, Absatz 6 (E)).

Der verbrecherische Charakter der Sulfonamid-Experimente und die Teilnahme Fischers und Oberheusers an denselben, sind im Schriftsatz der Anklagebehörde gegen Gebhardt beschrieben. Fischer streitet seine Teilnahme an diesen Experimenten nicht ab.

Er fuhrte die meisten Operationen aus. Er verteidigt sich mit zwei Argumenten: Erstens, dass den Versuchspersonen ihre angeblichen Todesurteile, wenn sie die Versuche ueberlebten, in mildere Urteile umgewandelt wurden, und zweitens, dass er auf Befehl eines Vorgesetzten - Gebhardt - handelte. Der erste Einwand ist bereits im Schriftsatz gegen Gebhardt ausfuehrlich behandelt worden und wird hier nicht wiederholt werden.

Artikel II, Absatz 4 (b) des Kontrollratgesetzes Nr.10 schreibt vor:

"Die Tatsache, dass jemand unter dem Befehl seiner Regierung oder seines Vorgesetzten gehandelt hat, befreit ihn nicht von der Verantwortlichkeit fuer ein Verbrechen; sie kann aber als strafmildernd beruecksichtigt werden."

Die einzige hier vorliegende Frage ist demnach, ob der Gerichtshof die Befehle eines Vorgesetzten als strafmildernd fuer Fischer beruecksichtigen sollte. Die Anklagebehoerde unterstellt, dass dies nicht der Fall sein sollte.

Fischer wusste zur Zeit, als er diese Versuche ausfuhrte, dass er ein Verbrechen beging. Er gab zu, dass er sie normalerweise nicht ausgefuehrt haben wuerde. (R.4338-9). Er kuemmerte sich nicht um die Frage, ob die polnischen Maedchen von einem Gerichtshof abgeurteilt worden waren oder in die Experimente eingewilligt hatten (R.4339-40), obgleich er sie nur haette zu fragen brauchen. Er sagte, er wusste nicht, wie die Versuchspersonen ausgewählt wurden. (R.4342). Als ausgebildeter Arzt kannte er die Schmerzen, Verunstaltung, Verkruopplung und Todesgefahr, denen seine Versuchsobjekte ausgesetzt sein wuerden.

Es stand kein Vorgesetzter mit geladener Pistole hinter Fischer und zwang ihn, etwas gegen seinen Willen zu begehen. Er war kein Soldat auf dem Schlachtfeld. Hohenlychen war weit entfernt vom Durcheinander der Front. Fischer handelte nicht in einer leidenschaftlichen Aufwallung. Er hatte genuegend Zeit, sich seine Handlungen zu betrachten und zu ueberlegen.

Er haette ohne Furcht vor den Folgen, die Teilnahme an den Versuchen verweigern koennen. Dies gab er zu, als er sagte: "Es war nicht die Furcht vor einem Todesurteil oder etwas derartigen, sondern die Alternative war, waehrend des Krieges gehorsam oder ungehorsam zu sein und dadurch ein Beispiel des Ungehorsams zu geben." (R.4374). Solch ein Gestaendnis entzieht jeder milderen Beurteilung die Grundlage. Ein Soldat steht immer vor der Alternative, einem Befehl zu gehorchen oder nicht zu gehorchen. Weiss er, dass der Befehl verbrecherisch ist, so ist es sicher eine leere Ausrede zu sagen, er muss nur des Gehorsams wegen befolgt werden. Besteht keine Furcht vor Vergeltung wegen des Ungehorsams und wird erkannt, dass der Befehl verbrecherisch ist, dann stellt Gehorsam eine vollkommen freiwillige Teilnahme an Verbrechen dar. So steht der Fall mit Fischer. Er wollte eben kein "boeses Beispiel" geben. Ausserdem kann das Prinzip des Befehls eines Vorgesetzten nicht als strafmildernd herangezogen werden, wo solch boesartige Verbrechen ohne die geringste militaerische Notwendigkeit bewusst und ruecksichtslos begangen worden sind.

Der Fall Oberheuser ist in gleicher Weise klar. Sie wurde aus freien Stuecken Lazeraerstin in Ravensbrueck. (Oberheuser, R.5485). Sie assistierte Gebhardt und Fischer regelmassig bei den Versuchen. Sie untersuchte die Versuchspersonen vor den Operationen, und ihr unterstand ihre nachoperative Betreuung. Sie meldete Fischer den Fortschritt der Versuche und war von allen damit zusammenhaengenden Einzelheiten unterrichtet. Sie meldete die drei Todesfaelle, welche, wie sie eingestand, vorkamen. (NO-477, Ankl.Bew.207, R.779; NO-487, Ankl.Bew.208, R.480-2).

Den Versuchspersonen wurde nur fuer einige Tage nach der Operation Pflege zuteil. Sie wurden in schlimmster Weise vernachlaessigt. (Mazske, R.1436, 1443-4). Ihre Behandlung war vollkommen unzureichend. (NO-873, Ankl.Bew.226, R.906). Viele der Versuchspersonen

bekamen auf Befehl der Oberheuser weder Medizin noch Morphin. (NO-877, Ankl.Bew.228, R.918). Nur von Zeit zu Zeit, wenn es den Aerzten gerade passte, bekamen sie Binden. Mitunter warteten sie drei Tage, mitunter vier Tage. Es herrschte ein schrecklicher Eitergeruch in den Zimmern. Die Maedchen waren gezwungen, einander zu helfen. (Mazeka, R.1444).

Die Zeugin Broel-Plater bezeugte:

"Mein Bein tat mir weh; ich hatte heftige Schmerzen, und Blut floss von meinem Bein. Nachts waren wir ganz allein ohne irgendwelche Pflege. Ich hoerte nur das Schreien meiner Mitgefangenen, und ich hoerte auch, dass sie um Wasser baten. Es war niemand da, uns Wasser oder Bettgeschuessel zu geben."
(R.790).

Die Zeugin Karolowska bezeugte:

"Ich war in meinem Zimmer und machte Mitgefangenen gegenueber die Bemerkung, dass wir unter sehr schlechten Verhaeltnissen operiert und in diesem Zimmer gelassen wurden und dass uns noch nicht einmal die Moeglichkeit gegeben wurde, wieder gesund zu werden. Diese Bemerkung muss von einer deutschen Krankenpflegerin, die in Flur sass, gehoert worden sein, denn die in den Flur fuehrende Tuere unseres Zimmers war offen. Die deutsche Krankenpflegerin kam ins Zimmer und hiess uns aufstehen und uns anziehen. Wir antworteten, wir koennten ihrem Befehl nicht folgen, weil wir grosse Schmerzen in den Beinen haetten und nicht gehen koennten. Dann kam die deutsche Krankenpflegerin mit Dr. Oberheuser in das Zimmer. Dr. Oberheuser hiess uns, uns anzuziehen und ins Verbandezimmer zu gehen. Wir zogen unsere Kleider an, und da wir nicht gehen konnten, mussten wir auf einen Bein ins Operationszimmer huepfen. Nach jedem einzelnen Hupf mussten wir uns ausruhen. Dr. Oberheuser liess nicht zu, dass jemand uns half. Als wir ganz erschoept im Operationszimmer ankamen, erschien Dr. Oberheuser und befahl uns zurueckzugehen, weil der Verband an dem Tag nicht gewechselt worden wurde. Ich konnte nicht gehen, aber jemand - eine Gefangene, an deren Namen ich mich nicht erinnere - half mir ins Zimmer zurueck."
(R.822).

Oberheuser nahm auch an den in Konzentrationslagern ueblichen Grauelthaten teil. Zofia Haj sagte in ihrer eidesstattlichen Erklaerung:

"Ich sah, wie die Oberheuser Frauen schlug und hinauswarf, die zu ihr gekommen waren, um ihre Beine nachsehen zu lassen, die sie sich waehrend der Arbeit boesse verletzt hatten. Sie behandelte sie gar nicht."

(NO-871, Ankl.Bew.227, R.913). Helena Piasecka sagte: "Zu Beginn des Jahres 1942 war eine alte deutsche Frau von

ungefähr 80 Jahren, die das grüne Dreieck am Arm trug, in einen Gang im Revier. Sie bat Dr. Oberheuser um ein paar Pillen, da sie krank war und sich kaum bewegen konnte. Oberheuser fragte sie, warum sie im Lager sei. Da sie nicht antwortete, trat die Oberheuser sie. Die Frau fiel weinend zu Boden. Die Oberheuser lachte und hiess sie aufstehen und weggehen und gab ihr keine Medizin. Ich war auch im Gang und war Zeuge davon." (NO-864, Ankl.Bew.229, R.923).

Oberheuser gestand in ihrer eidesstattlichen Erklärung vor dem Prozess, dass sie kranke Insassen durch Einspritzungen getötet habe. Wie sie sich ausdrückte: "Es war in Ravensbrück keine Seltenheit, dass Personen, die dem Tod nahe waren, durch Einspritzungen getötet wurden. Ich gab selbst 5 oder 6 solcher Einspritzungen". (NO-487, Ankl.Bew.208, R.780). Sie bestätigte dieses Eingeständnis vom Zeugenstand aus, auf Befragen durch das Gericht, mit beträchtlichen Widerstreben. (R.5527-8). Dass irgendein Arzt eine solche Tötung vom ethischen Standpunkt - vom rechtlichen gar nicht zu sprechen - als erlaubt betrachten sollte, ist undenkbar.

Es ist zu erwarten, dass Oberheuser und vielleicht auch Fischer das Argument vorbringen werden, dass sie nicht in der Lage waren, die Experimente zu verhindern und deshalb freigesprochen werden sollten. Ein solches Argument ist vollständig bedeutungslos. Die Frage ist lediglich, ob die Angeklagte am Verbrechen teilnahm, nicht ob es von Angeklagten hätte verhindert werden können. Die Juden wurden auch ohne die todsüchtigen Ausbrüche Streichers ausgerottet worden sein. Ein Wachmann im Konzentrationslager kann mit einem gewissen Recht sagen, dass, wenn er nicht ein gewisses Verbrechen begangen hätte, ein anderer es getan hätte. Aber das ist einfach kein Verteidigungsgrund; noch ist es ein Strafmilderungsgrund. Es moegen auch noch andere Personen ausser Fischer und Oberheuser gewillt gewesen sein, Verbrechen zu begehen, aber entscheidend ist, dass Fischer und Oberheuser sie in der Tat begingen.

II. Knochen-, Muskel- und Nervenregenerations- und Knochen-
verpflanzungs-Experimente (Anklageschrift, Ziffer 6 (F)).

Der verbrecherische Charakter dieser Experimente und die Teilnahme von Fischer und Oberheuser an denselben sind in dem Schriftsatz der Anklagebehörde gegen Gebhardt auseinander-gesetzt.

Fischer gab in seiner eidesstattlichen Erklärung zu, dass er den chirurgischen Plan für diese Experimente vorbereitete und dass er von Gebhardt angewiesen wurde, in Zusammenarbeit mit Stumpfegger die Experimente auszuführen. Er führte Stumpfegger, Schulze und Schulze-Hagen bei dem Lagerarzt in Ravensbrück ein. Fischer suchte sich persönlich die Durchführung der Muskelregenerationsversuche aus, und er beschrieb die Operationstechnik in ihren Einzelheiten. (NO-228, Ankl.Bew. 206, R. 774).

Fischer gab zu, dass er einem Häftling von Ravensbrück das Schultergelenk entfernte, das auf den Patienten Ladisch in Hohenlychen verpflanzt wurde. (Fischer, R. 4317). Er wusste, dass dies ein Verbrechen war, da er sagte: "Ich erhob professionelle und menschliche Einwände bis zum Abend, an dem die Operation durchgeführt wurde, aber Gebhardt befahl uns, die Operation durchzuführen." (NO-228, s.oben). Fischers Zeugenaussage über dieses Experiment enthüllte einen unglaublichen Mangel an Unterrichtetsein. Er sagte, er wusste nicht, ob der Häftling, dessen Schultergelenk er entfernte, ein Mann oder eine Frau war. Er erklärte in einem Verhör in der Voruntersuchung, dass der Versuchsperson der Arm vorher amputiert worden sei; auf dem Zeugenstand sagte er aus, es sei nur die Hand amputiert worden. Auf jeden Fall konnte er aus eigenem Wissen nicht bezeugen, dass entweder die Hand oder der Arm

vorher abgenommen worden waren. Obgleich er die Operation selbst ausfuhrte, sagte er, dass er die Versuchsperson nicht untersuchte und nicht beobachtete, ob eine Amputation stattgefunden habe. Er sah angeblich nur den Rucken des Opfers. Er wusste nicht, ob die Versuchsperson in die Vivisektion eingewilligt hat. Er wusste nicht, ob die Versuchsperson nach der Operation getestet wurde. Fischer sah die Versuchsperson nicht wieder. (Fischer, R. 4356-9). Fischers Widerstreben, Einzelheiten dieses Versuches wiederzugeben, erklart sich vielleicht aus der Tatsache, dass das Beweismaterial der Anklagebehörde zeigt, dass Fischer selbst den ganzen Arm amputierte. (Magzka, R.1448).

Die Zeugin Magzka sagte aus, dass Fischer und Oberhouser in Zusammenarbeit mit Stumpfegger an den Knochenexperimenten teilnahmen. (R.1458). Gebhardt gab zu, dass Fischer sein Verbindungsmann zu Stumpfegger war. (R. 4090).

Fischer sagte aus, dass er nach Mitte Dezember 1942 an keinem der Experimente teilnahm. (R. 4370). Das wird klar durch die eidesstattliche Erklarung der Zofia Baj widerlegt, die beweist, dass Fischer am 23. Februar 1943 ein Knochenexperiment an ihr ausfuhrte. Sie sagte:

"Meine zweite Operation fand am 23. Februar 1943 statt. Da ich seit meiner ersten Operation nicht mehr aufgestanden war, war ich zu schwach, um Widerstand zu leisten. Magzka kam vor der Operation mit Schidlauski in das Zimmer und fragte ihn, was gemacht werden wurde. Er antwortete, dass er nichts von den Operationen verstehe und dagegen sei. Dann fragte er Magzka, was man mit mir gemacht habe, und sie erzählte ihm, was sie auf den Radiographien gesehen hatte.

" Ich wurde dieses zweite Mal von Fischer operiert, der feststellen kam, ob ich auch die Person sei, die er operieren wollte, denn während der vorhergehenden Woche (16.2.43) war ich irrtuemlicherweise ins Operationszimmer geschickt worden und als Fischer mich sah, sagte er, ich sei nicht diejenige, die er an diesem Tage operieren wollte.

Spaeter sagte mir Maczka (Magzka), dass bei dieser zweiten Operation meine Beine wieder geoeffnet wurden und die Einschnitte zwischen den zwei Haelften der Wadenbeine um ungefuehr 1 cm geschlossen waren. Waehrend der Operation wurde ein neues Stueck der Wadenbeine abgenommen, man operierte jedoch die Schienbeine nicht. Danach wurden meine Beine wieder zugemacht, aber eine gebogene Nadel und ungefuehr 20 cm Seidenfaden wurden in der Wunde des linken Beines gelassen. Dies verursachte heftige Schmerzen und wurde spaeter im Februar 1945 von Treite herausgenommen. Treite wollte es nicht machen, denn er sagte, es sei ihm nicht erlaubt, unsere Beine anzufassen, zuletzt tat er es dennoch. Ich behielt die Nadel und den Faden waehrend einiger Zeit, verlor sie aber, als ich Ravensbrueck verliess." (NO-871, Ankl.Bew. 227, R. 914).

Oberhauser gab zu, dass sie bei den Knochenexperimenten in derselben Weise mitwirkte wie bei den Sulfonamidversuchen. (NO-487, Ankl.Bew. 208, R. 782).

C. Andere Experimente.

Das Beweismaterial ergibt, dass Fischer von anderen verbrecherischen Versuchen ausser den Sulfonamid- und Knochenversuchen Kenntnis hatte.

Gebhardt hatte mindestens zwei Konferenzen mit Rascher ueber seine Experimente in Dachau. Das Protokoll ueber diese Konferenzen beweist, dass Fischer bei beiden anwesend war. (NO-231, Ankl.Bew. 116, R.360).

Fischer war auch an den Sepsisexperimenten in Dachau beteiligt. (Siehe Schriftsatz gegen Gebhardt). Auf einen vom 7.September 1942 datierten Brief Grawitzons an Himmler, dem Berichte ueber die Sulfonamid- und Sepsisexperimente beigelegt waren, schrieb Gebhardt das folgende:

"16.September 1942.

Nach Ruecksprache mit RF*SS erledigt.-

Obersturmfuehrer Fischer mit neuen Anweisungen fuer Ravensbrueck und Dachau versehen. Gebhardt."

NO-2734, Ankl.Bew. 473, R. 5622). (Unterstreichungen eingefuegt.)

III. Schluss.

Fischer und Oberheuser nahmen persönlich an den verbrecherischen Sulfonamid- und Knochen-, Muskel- und Nervenregenerationsversuchen im Ravensbruecker Konzentrationslager teil. Fischer fuehrte viele der Operationen aus. Oberheuser untersuchte die Polinnen vor der Operation, assistierte bei den Operationen, und ihr unterstand die post-operative Pflege. Diese Pflege war nachlaessig und ungenuegend. Fuenf der Versuchspersonen starben als direkte Folge der Experimente, und sechs andere wurden spaeter hingerichtet. Saemtliche Opfer litten grosse Schmerzen und viele erlitten dauernden Schaden.

Oberheuser nahm an anderen Grauelthaten in Ravensbrueck teil und gestand die Tuetung von fuenf oder sechs Haefthlingen, die krank waren, durch Einspritzungen zu.

Fischer stand auch mit Plaenen und Unternehmungen in Verbindung, die Raschers Hoehen- und Gefrierexperimente und die Sepsisexperimente in Dachau zum Gegenstand hatten.

Die Anklagebehoerde unterstellt, dass das Beweismaterial ergibt, dass Fischer und Oberheuser Haupttaeter, Beiholfer, Anstifter und Verschueblende waren, ihre Zustimmung gaben zu und in Zusammenhang standen mit Plaenen und Unternehmungen, die die Vornahme medizinischer Versuche an menschlichen Versuchsobjekten ohne ihre Zustimmung einschlossen, in deren Verlauf Mordtaten, Brutalitaeten, Grausamkeiten, Folterungen, Grauelthaten und andere unmenschliche Taten begangen wurden. Fischers Schuld im Sinne der Punkte I, II, III und IV der Anklageschrift ist erwiesen. Die Schuld von Oberheuser ist erwiesen im Sinne der Punkte I, II und III der Anklageschrift.

"Ende".

Ich, Fred Lax, X046 207 bestaetige hiernit, dass ich durchaus vertraut mit der englischen und deutschen Sprache bin, und dass das Vorstehende eine wahrheitsgemasse und richtige Übersetzung des Dokuments Fischer und Oberheuser darstellt.

2. Juli 1947

Fred Lax
X 046 207

MILITÄRGERICHTSHOF No. I

FALL No. 1

ZUSAMMENFASSENDE SCHRIFFTSATZ
DER VEREINIGTEN STAATEN VON AMERIKA

-gegen-

KARL GEBHARDT

James M. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Bether Jane Johnson

Fuer:

Nuernberg,
16. Juni 1947.

Telford Taylor
Brigadier General, U.S.A.,
Chief of Counsel for War Crimes



EINFÜHRUNG

Unter Anklagepunkt I der Anklageschrift wird Karl Gebhardt im wesentlichen vorgeworfen, sich mit anderen Personen im Verfolg eines gemeinsamen Vorhabens zu einer Verschwörung und Uebereinkunft zusammengefunden zu haben, ärztliche Versuche an Versuchspersonen ohne deren Zustimmung vorzunehmen; unter Anklagepunkt II und III (Kriegsverbrechen, bzw. Verbrechen gegen die Menschlichkeit) Haupttäter, Teilnehmer, Anstifter, Verschleiender gewesen zu sein, seine Zustimmung gegeben und mit Plänen und Unternehmen bei denen es sich um medizinische Versuche an Versuchspersonen gegen ihren Willen handelte, in Verbindung gestanden zu haben; unter Anklagepunkt IV nach dem 1. September 1939 ein Mitglied der SS gewesen zu sein, einer Organisation, die vom Internationalen Militärgerichtshof fuer verbrecherisch erklärt worden ist.

Die Handlungen, die als Kriegsverbrechen und Verbrechen gegen die Menschlichkeit gelten, sind im Absatz 1 (b) und (c) des Artikels II des Kontrollratgesetzes angeführt, Mitgliedschaft in einer vom Internationalen Militärgerichtshof fuer verbrecherisch erklärten Organisation gilt nach Absatz 1 (d) desselben Artikels als Verbrechen. Die Strafbarkeitsmerkmale werden in Absatz 2, des Artikels II des Kontrollratgesetzes Nr. 10 aufgeführt.

I. VERANTWORTLICHE STELLUNGEN

Der Angeklagte Gebhardt hatte Stellungen im Sanitätswesen der SS, im nationalsozialistischen Deutschland inne, die grosse Machtbefugnisse und Verantwortlichkeit in sich schlossen. Er trat der N.S.D.A.P. im Jahre 1933, der SS mindestens schon 1935 bei. (NO-671, Ankl.Bew.25, R. 126-7; Gebhardt, R. 4198, vergl. NO-649, R.4197). Er beteiligte sich am nationalsozialistischen Putsch des Jahres 1923, der den Umsturz der sogenannten Weimarer Republik zum Ziele hatte, der damaligen demokratischen Regierung in Deutschland.

Er war damals Mitglied des illegalen Freikorps "Bund Oberland". (NO-671, oben Gebhardt, R. 3959). Als im Jahre 1933 das Krankenhaus in Hohenlychen eröffnet wurde, wurde Gebhardt zum Chefarzt der Anstalt ernannt. (Gebhardt, R. 3943). Im Jahre 1938 wurde er Himmlers behandelnder Arzt. Er war auch Leibarzt Himmlers und seiner Familie. (NO-671, oben; Gebhardt, R. 3962). Im Jahre 1940 wurde Gebhardt zum beratenden Arzt der Waffen-SS und im Jahre 1943 zum Obersten Kliniker des Reichsarzt SS und der Polizei (Grawitz) ernannt. In der Allgemeinen SS stieg Gebhardt zum Rang eines Gruppenführers (Generalleutnant) und in der Waffen-SS zu dem eines Generalleutnants der Reserve auf. (NO-671, oben).

Anfangs 1940 schlug Gebhardt Himmler vor, die Stellung eines beratenden Arztes der Waffen-SS zu schaffen. Infolgedessen wurde er durch einen Befehl Himmlers, vom 17. Mai 1940, zu dieser Stellung ernannt. Gemäss diesem Befehl hatten die Militärsärzte und die Ärzte im Lazarett der Waffen-SS Gebhardts klinischen Anordnungen Folge zu leisten und alle militärischen Behörden wurden angewiesen, ihm und seinem Stabe an die Hand zu gehen. (Gebhardt R. 3971-3).

Gebhardts persönlicher Einfluss und seine engen Beziehungen mit Himmler waren eine andere Quelle beträchtlicher Macht. Um seine verantwortliche Stellung zu würdigen, muss man sich Himmlers fast unbegrenzte Machtbefugnisse im nationalsozialistischen Deutschland im allgemeinen und über die Konzentrationslager im besonderen vergegenwärtigen. In diesem Punkt ist Gebhardts Aussage über seine Beziehungen zu Himmler sehr aufschlussreich. Gebhardts persönliche Beziehungen zu Himmler waren vertrauter Natur und von langer Dauer. Beide sind in derselben Stadt geboren, gingen zur gleichen Schule und verbrachten ihre Jugend zusammen. Gebhardts Vater war der Arzt von Himmlers Familie; Himmlers Vater war Direktor der Schule, die Gebhardt besuchte. (Gebhardt R. 3958).

Himmler sowohl als Gebhardt beteiligten sich am nationalsozialistischen Putsch im Jahre 1923. (Gebhardt, R. 3959). Gebhardt beratschlagte mit Himmler wegen der Vorbereitung der Olympischen Spiele in Deutschland, wurde ein Mitglied des deutschen Komitees fuer diese (Gebhardt, R. 3961), und wurde prompt mit dem Titel eines Ehrenführers in der SS belohnt. (Gebhardt R. 3962). Himmler besuchte Hohenlychen nicht nur häufig, (Gebhardt, R.3962) sondern sein Sohn und seine zweite Tochter kamen auch dort zur Welt und verblieben bis zum Zusammenbruch Deutschlands unter Gebhardts Obhut. (R.3963). Himmler informierte Gebhardt "ueber den hoechstpersoenlichen Konflikt in seinem Leben" (daselbst) und Gebhardt erledigte gewisse "persoenliche Angelegenheiten Himmlers" (R.3964). Er war Himmlers Begleiterarzt als die Deutschen in Oesterreich im Jahre 1938 einfielen, im Sudetenland im selben Jahre (Gebhardt R.396) und in Polen im Jahre 1939 (Gebhardt R.3963). Im Jahre 1941 gab er diese Stellung auf. An seine Stelle trat sein fruherer Assistent Dr. Stumpfegger (Gebhardt R. 3962), offensichtlich auf Gebhardts eigene Anregung hin. Gebhardt beschrieb seine Stellung als Himmlers Begleiterarzt als eine persoenliche. Er erstattete Himmler sehr oft Bericht und gab ihm, wie er sich ausdrueckte, "aus eigener Initiative die ehrlichste und wahrheitsgemuesseste Information" ueber irgendeine besondere Situation (Gebhardt R.3960,3962). Wie der Angeklagte Gonsken aussagte, stand Gebhardt in einer besonderen Vertrauensstellung zu Himmler (R.3778,3784). Die Beweisaufnahme zeigt, dass Gebhardt eine bedeutende Rolle bei den systematischen Experimenten an Konzentrationslagerinsassen spielte.

Gebhardt gab zu, dass er schon im Mai 1942 wusste, dass Hitler seine Zustimmung zu Experimenten an Konzentrationslagerhaeftlingen gegeben hatte. Er erfuhr dies bei einer Zusammenkunft mit Himmler u. Grawitz. (R.4190). Die einzelnen Versucheleiter wurden an K. Z. Haeftlingen ohne Deckung von hoechster Stelle keine Experimente vorgenommen haben;

selbst Himmler suchte Deckung durch Hitler. (Gebhardt R.4191/92). Er wusste, dass im Vorlauf der Kriegsjahre die Vornahme von solchen Experimenten sich zu einer systematischen Praxis entwickelt hatte. (Gebhardt R. 4189-90). Gebhardt hatte an der systematischen Vermehrung dieser Verbrechen Anteil.

Die verantwortlichen Stellungen des Angeklagten Gebhardts waren also: Chefarzt des Krankenhauses in Hohenlychen, Leibarzt von Himmler, Gruppenführer in der Allgemeinen-SS und Generalleutnant in der Waffen-SS, beratender Arzt der Waffen-SS, Oberster Kliniker des Reichsarztes SS und Polizei und Himmlers persönlicher Berater in medizinischen Dingen. Gebhardt benutzte die obigen Stellungen, seinen persönlichen Einfluss und seine vertrauten Beziehungen zu Himmler in einer Weise, die die Beghung von Kriegsverbrechen und Verbrechen gegen die Menschlichkeit mit sich brachte, wie in der Anklageschrift ausgeführt ist.

II. Persönliche Beteiligung an verbrecherischen Experimenten.

In Absatz 6 der Anklageschrift sind 12 verschiedene Arten von Experimenten im einzelnen aufgeführt. Gebhardt wird die besondere Verantwortlichkeit fuer, und Beteiligung an allen zur Last gelegt.

A. Sulfonamid-Versuche (Anklageschrift, Ziffer 6 (3)).

Versuche zur Erprobung der Wirksamkeit von Sulfonamid gegenüber Infektionen wurden im K.Z. Ravensbrueck vom 20. Juli 1942 bis August 1942 vorgenommen. Diese Experimente wurden von den Angeklagten Gebhardt, Fischer und Oberhauser vorgenommen. (NO-228, Ankl.Bew.206, R.767).

Gebhardt ersuchte persönlich um Himmlers Erlaubnis, die Sulfonamid-Versuche vornehmen zu dürfen und er war fuer ihre Vornahme verantwortlich (Gebhardt R.4034/25). Er selbst nahm die anfänglichen Operationen vor. (Gebhardt R.4032).

Die Versuchspersonen bestanden aus 15 männlichen K.Z.-Häftlingen, die im Juli 1942 während der vorbereitenden Experimente verwandt wurden, und 60 polnischen Frauen, an denen in 5 Gruppen von je 12 Versuchspersonen Versuche vorgenommen wurden. (Gebhardt R.4056).

Der Zweck der Versuche wurde von Gebhardt in einem vorläufigen Bericht vom 29. August 1942 dargelegt, in dem es hieß:

"Auf Befehl des Reichsführers-SS habe ich am 20. Juli 1942 in F.M.L. Ravensbrück mit einer klinischen Versuchsreihe begonnen, die das Ziel hat, die unter dem Namen Gasbrand bekannten, klinischen nicht einheitlich verlaufenden Erkrankungen zu analysieren und die bisher bekannten therapeutischen Mittel auf ihre Wirksamkeit zu prüfen."

"Ausserdem sollten die bannigen Wundinfektionen, die als Begleiterscheinungen in der Kriegschirurgie auftreten, ebenfalls geprüft werden und der Versuch einer neuen chemotherapeutischen Heilung neben den bekannten chirurgischen Massnahmen unternommen werden."
(NO-2734, Ankl.Bew. 473, R. 5622).

Die Sulfonamid-Versuche, wie in wesentlichen alle Versuche, die Gegenstand dieser Verhandlung sind, standen in direkter Beziehung zum deutschen Kriegseinsatz. Die alliierte Propaganda hinsichtlich des "Wundermittels" Sulfonamid begann eine beträchtliche Wirkung auf das Vertrauen der deutschen Soldaten zu ihren Sanitätsoffizieren auszuüben. Schwere Verluste waren im Winter 1941/42 an der russischen Front infolge von Gasbrand entstanden. Das theoretische Problem, das diese Versuche beantworten sollten, war, ob die Verwundeten chirurgisch in Frontlazaretten oder von Sanitätsoffizieren mit Sulfonamid behandelt und dann auf den langen Verbindungslinien zwecks weiterer Behandlung in ein Feldlazarett gebracht werden sollten. (Gebhardt R.4010/14).

Aus demselben oben angeführten Bericht geht hervor, dass der Angeklagte Fischer von Gebhardt zu seinen Assistenten ernannt wurde; Dr. Blumenröther, ein Untergebener des Angeklagten Gensken, stellte die chirurgischen Instrumente und Arzneimittel bereit; der Angeklagte Mrugowsky stellte sein Laboratorium und seine Mitarbeiter zur Verfügung von Gebhardt; und Dr. Lelling, Chefarzt für alle Konzentrationslager, wie Dr. Schiedlausky und die Angeklagte Oberhauser als Mitarbeiter zu.

Dieser vorläufige Bericht befasst sich mit den frühen Versuchen an den 15 männlichen Versuchspersonen, um eine Methode zur Infektion mit Gasbrand zu bestimmen. Gebhardt wurde vom Hygiene Institut der Waffen-SS unterstützt, das die

Bakterienkulturen zur Verfügung stellte und Ratschläge gab, wie eine Brandinfektion künstlich hervorgerufen werden könne. Die Versuchstechnik wurde in dem Versuch wie folgt beschrieben:

"Es galt die Impfkulturen an geschädigtem Muskelgewebe aufzusetzen, dieses von der atmosphärischen und humoralen Sauerstoffzufuhr abzuschliessen und dem inneren Gewebedruck auszusetzen. Das Impfverfahren war folgendes: 10 cm langer Längsschnitt über den Muskulus peroneus longus, nach Spaltung der Faszie wurde in einen fünfmarkenstückgrossen Bezirk der Muskel mit der Nadel gequert und eine anaemische Radzone durch Einspritzung von 3 ccm Adrenalin geschaffen, subfaszial wurde in den Bereich des geschädigten Muskels das Impfmaterial (mit Bakterien getränkter Gazetupfer) versenkt, Faszie, subkutanes Fettgewebe und Haut schichtenweise verschlossen."

In den ersten Versuchsreihen wurden die Versuchspersonen mit Staphylococcus, Streptococcus, Para Oedema Malignum und Bakteria Fraenkel und Erde infiziert. Die hervorgerufenen Infektionen wurden als nicht ernst genug angesehen. Es fand eine Konferenz mit dem Hygiene Institut der Waffen-SS statt und die Bakterienkultur zur Hervorrufung der Infektionen wurde gewechselt. Sechs weitere männliche Versuchspersonen wurden dann infiziert, aber die Resultate wurden wiederum fuer nicht ernsthaft genug angesehen. Nach weiterer Beratung mit den Mitarbeitern im Hygieneinstitut der Waffen-SS wurde das Infektionsmaterial durch Zusatz von Kobalspaaenen geändert. Während des Verlaufes dieser Experimente wurden die Versuchspersonen mit verschiedenen Arten von Sulfonamiden behandelt, einschliesslich Oatexyn und Marfanilprontelbin. Das letztere wurde von der Heeres-Sanitätsinspektion sehr empfohlen. Weitere Anstrengungen wurden gemacht, um die Brandinfektion ernsthafter zu machen, und der Bericht schloss mit dem folgenden Absatz:

"Es wurde nunmehr die Frage untersucht, weshalb in vorliegenden Faellen der Gasbrand nicht voll zur Entwicklung kam. Deshalb wurde die Gewebeschadigung und die Ausschaltung eines Muskels aus dem Blutkreislauf in einer gesonderten operativen Sitzung vorgenommen, auf die dadurch entstehende Grossnekrose soll ein Bakterienstamm verimpft werden, der eine Menschenpassage bereits hinter sich hat. Dann erst, wenn das wirklich eindeutig klinische Bild des Gasbrandes erzeugt ist, koennen endgueltige Ruckschluesse auf die Therapie mit chemotherapeutischen Mitteln in Verbindung mit chirurgischen Eingriffen gezogen werden." (Unterstreichungen eingefuegt).

Dieser Bericht wurde als wahrheitsgetreue Abschrift von dem Angeklagten Poppendick beglaubigt.

In seinem Eifer, seine Mitangeklagten zu schuetzen, sagte Gebhardt aus, dass weder das Hygiene Institut der Waffen-SS noch der Angeklagte Mrugowsky irgendeinen Anteil an diesen Experimenten hatte, und dass ihm das Infektionsmaterial von Grawitz uebersandt worden war (R.4179). Dem widerspricht offensichtlich sein eigener, oben angefuhrter Bericht.

Im Anschluss an das Ende der vorbereitenden Versuche an maennlichen Gefangenen, wurden die Versuche an weiblichen polnischen Insassen fortgesetzt. Die eidesstattliche Erklaerung des Angeklagten Fischer besagt, dass drei Reihen von Operationen vorgenommen wurden, an jeweils 10 Personen; die erste unter Benutzung von Bakterienkulturen und Holzsplittern, die zweite unter Benutzung von Bakterienkulturen und Glassplittern, und die dritte unter Verwendung von Kulturen und Glas und Holz (NO-228, Ankl.Bew.206, R.767). Diese Experimente wurden im Vorlauf des August 1942 vorgenommen. Waehrend Fischer von Versuchsgruppen von jeweils 10 Personen spricht, sagte der Angeklagte Gebhardt aus, dass sich die Gruppen aus 12 Versuchspersonen zusammensetzten (R.4056). Am 3. September 1942, nachdem Versuche an 36 Frauen vorgenommen worden waren, besuchte Reichsarzt-SS Grawitz Ravensbrueck und untersuchte die Versuchspersonen. Er fragte Gebhardt, wie viele Todesfaelle sich ereignet haetten, und als man ihm berichtete, dass sich keine ereignet haetten, sagte er, dass die Versuche nicht den auf dem Schlachtfeld herrschenden Bedingungen entspraechen (NO-228, oben;)

Gebhardt, R.4057). Um die Brandinfektion noch ernster zu machen, wurde eine neue Versuchsreihe mit 24 polnischen weiblichen Insassen ausgeführt. In diesen Reihen wurde die Blutzirkulation in den Muskeln in den Infektionsgebieten durch die Abbindung der Muskeln an beiden Enden unterbrochen. Diese Reihe von Experimenten hatte sehr ernsthafte Infektionen zur Folge und eine Reihe von Todesfällen trat ein (NO-228, oben).

Gebhardt, Fischer und Oberheuser geben alle zu, dass drei Versuchspersonen an den Folgen der Versuche starben (NO-228, oben; Gebhardt, R.4059; Oberheuser, R.5492). Aus anderem Beweismaterial geht jedoch hervor, dass fünf an den unmittelbaren Folgen der Versuche starben und sechs durch Erschiessen hingerichtet wurden (Magzka, R.1438, 1449; Broel-Plater, R.797; Dzido, R.845; Kuzmierczuk, R.863).

Vier der polnischen Frauen, die sich diesen Versuchen unterziehen mussten, sagten vor dem Gerichtshof aus. Die meisten der Frauen, die als Versuchspersonen benutzt wurden, waren in der Widerstandsbewegung tätig gewesen (BP., R.787; Kar., R.816; Dz., R.840; Kuz., R.857). Nur gesunde Insassen wurden verwendet (BP., R.786; Kar., R.815; Dz., R.836; Kuz., R.856, 860-1). Keine von ihnen stellte sich freiwillig fuer die Versuche zur Verfügung (BP., R.789; Kar., R.819; Dz., R.842, 844-5; Kuz., R. 861). Im Gegenteil, sie protestierten, sowohl mündlich wie schriftlich gegen die Versuche (BP., R.789/794; Kar., R.823-5). Sie sagten aus, sie wuerden den Tod einer Weiterführung der Versuche vorgezogen haben, weil sie ueberzeugt waren, dass sie auf jeden Fall sterben wuerden (BP., R.795; Kar., R.824; Kuz., R.863). Sie sagten aus, dass Versuche an 74 polnischen Frauen, einer Deutschen und einer Ukrainerin vorgenommen worden seien.

(Magzka, R.1438; BP., R.796; Kar., R.818; Kuz., R.862). Da Gebhardt die Gesamtzahl der bei den Sulfonamid-Versuchen verwendeten polnisch weiblichen Versuchspersonen mit 60 angibt,

koennen die 16 zusatzlich von den Zeuginnen genannten Frauen sehr wohl Versuchspersonen bei den Knochen-, Muskel- und Nerven-Regenerations-Experimenten gewesen sein (Magska, R.1462).

Die Zeugin Kuzmierczuk war eine der Versuchspersonen bei den Sulfonamid-Experimenten. Sie ist polnische Staatsangehoerige und kam im Herbst 1941 nach dem K.Z. Ravensbrueck (R.857). Im Oktober 1942 wurde sie operiert, und in ihrem Fall bildete sich eine schwere Infektion heraus (R.858). Sie verblieb vom Oktober 1942 bis April 1943 im Lazarett, aber ihre Wunde war noch immer nicht geheilt, als sie aus dem Lazarett entlassen wurde. Ihr Zustand verschlimmerte sich und sie wurde am 1. September 1943 wieder in das Lazarett aufgenommen (R.860). Sie verliess das Lazarett das zweite Mal im Februar 1944, aber ihre Wunde heilte erst im Juni 1944 endgueltig. (R.861). Sie identifizierte die Angeklagten Gebhardt, Fischer und Oberhouser als die Personen, die sich bei dem an ihr vorgenommenen Experiment beteiligt hatten (R.860). Die Zeugin trug infolge dieser Versuche dauernde Schaeden davon und ihr Zustand wurde von dem sachverstaendigen Zeugen Dr. Leo Alexander beschrieben (R.864-9). Die Behandlung dieser Frau nach der Operation wurde nicht von Gebhardt und Fischer sondern von den Lageraerzten vorgenommen. Zur Zeit ihrer zweiten Einlieferung ins Lazarett im September 1943 wurde sie beim Versuch die tiefwurzelnde Infektion auszuheilen von Dr. Treite operiert (Kus., R.861).

Die sachverstaendige Zeugin Magska, die waehrend der Versuche als Roentgenologin im K.Z. Ravensbrueck arbeitete, machte Aussagen, die sich auf den Tod der 5 polnischen Versuchspersonen als Folge der Sulfonamid-Versuche bezogen. Bei Weronica Kraska traten ein paar Tage nach ihrer experimentellen Operation typische Starrkrampfsymptome auf. Nach kurzer Krankheit verstarb sie an durch Starrkrampf verursachten Kraempfen (Magska, R.1438). Kasimiera Kurowska wurde kuenstlich mit Brandbazillen infiziert. Sie war ein gesundes 23 jaehriges, polnisches Maedchen. Von Tag zu Tag wurde ihr Bein schwaerzer und schwoll mehr an. Sie

wurde nur waehrend der ersten paar Tage gepflegt. Darnach wurde sie ins Zimmer 4 des Lazaretts gebracht, wo sie 4 Tage lang in unsagbaren Schmerzen lag und schliesslich starb. Die Zeugin Maszka war in der Lage, diesen Fall persoenlich zu beobachten und ihrer Meinung nach wuerde eine unverzuegliche Operation ihr Leben gerettet haben (Magzka, R.1439-40). Es ist ganz klar, dass wenn das Leben eines deutschen Soldaten durch Brandinfektion bedroht gewesen waere, eine Amputation unverzueglich vorgenommen worden waere. Bei diesem Versuch, bei dem gerade eine Anstrengung gemacht worden war, eine ernsthafte Brandinfektion hervorzurufen, um die Wirkungen der Sulfonamid-Praeparate auszuprobieren, ist es ebenso offensichtlich, warum das Bein der Kurowska nicht amputiert wurde. Amilae Lefanowicz wurde mit Oedema Malignum infiziert. Ihr Bein schwoll mehr und mehr an, die Blutgefasse wurden zerfressen und sie verstarb durch Verbluten. Magzka sagte aus, dass die Blutgefasse haetten abgebunden werden muessen und eine Operation vorgenommen, um ihr Leben zu retten. Nach den ersten zwei oder drei Tagen wurde sie voellig vernachlaessigt (Magzka, R.1440-1). Zofia Kiecol starb unter aehnlichen Umstaenden (Magzka, R.1441).

Alfreda Prus wurde am selben Tage wie die Zeuginen Kusmierczuk Kiecol und Lefanowicz mit Oedema Malignum infiziert. Sie war ein schoenes 21 Jahre altes Maedchen und Universitaetsstudentin. Sie erwies sich als staerker als die Kiecol und die Lefanowicz und lebte deshalb ein paar Tage laenger. Sie stand schreckliche Schmerzen aus und verstarb am Ende an Blutung. (Magzka, R.1442-3). Die Zeugin Kusmierczuk war die einzige Versuchsperson, die diese Versuchsreihen ueberlebte (Magzka, R.1443).

Es ist kaum notwendig darauf hinzuweisen, dass alle Versuchspersonen starke Schmerzen und Qualen litten. (BP., R.790-1,802; Kar., R.820; Dz., R.842; Kus., R.859; NO-876, Ankl.Bew. 225, R.899; NO-871, Ankl.Bew.227, R.913; NO-877, Ankl.Bew.228, R.918). Der Gerichtshof war

in der Lage selbst die Verstümmelung zu beobachten, die die polnischen Zeuginnen erdulden mussten und Abbildungen ihrer Narben wurden zur dauernden Einverleibung in die Akten vorgelegt (NO-1079a, b und c, Ankl.Bew. 209, R.789; NO-1081a und b, Ankl.Bew. 211, R.829; NO-1082a, b und c, Ankl.Bew.214, R.846; NO-1080a-g, Ankl.Bew. 219, R. 863).

Die Behandlung der Versuchspersonen nach der Operation war gaenzlich unzureichend (NO-873, Ankl.Bew.226, R.906). Vielen der Versuchspersonen wurden auf Veranlassung der Angeklagten Oberheuser weder Arzneimittel noch Morphinum verabreicht (NO-877, Ankl.Bew. 228, R.918). Wenn es den Aerzten gerade passte, wurden ihnen von Zeit zu Zeit Verbaende gegeben. Manchmal warteten sie drei Tage, manchmal vier Tage. Ein schrecklicher Eitergeruch herrschte in den Raemen. Die Maedchen mussten einander helfen (Magzka, R.1444). Soweit eine Behandlung nach der Operation erfolgte, wurde sie von den Lageraerzten vorgenommen. Die Zeugin Broel-Plinter sagte aus, dass:

"Mein Bein schmerzte mich; ich hatte grosse Schmerzen und Blut floss von meinem Beine. Nachts waren wir ganz allein ohne jede Pflege, ich hoerte nur die Schreie meiner Mitgefangenen und ich hoerte, dass sie um Wasser baten, niemand gab uns Wasser oder Nachtgeschirre." (R.790).

Die Zeugin Karolowska sagte aus, dass:

"Als ich in meinem Zimmer war, bemerkte ich zu Mitgefangenen, dass wir unter recht schlechten Bedingungen operiert wurden und dass man uns nicht einmal die Moeglichkeit gewahrte, uns zu erholen. Diese Bemerkung wurde anscheinend durch eine deutsche Krankenpflegerin gehoert, die im Gang sass, da die Tuere zum Gang offen war. Die deutsche Krankenpflegerin kam herein und herrschte uns an aufzustehen und uns anzuziehen. Wir antworteten, dass wir ihren Befehl nicht folgen koenn-ten, da unsere Beine fuerchterlich schmerzten und wir ausserstande waren zu gehen. Dann kam die deutsche Krankenpflegerin und Dr. Oberheuser in unser Zimmer herein. Dr. Oberheuser befahl uns anzuziehen und in den Verbandraum zu kommen. Wir zogen unsere Kleider an, und da wir nicht gehen konnten, huspften wir auf einem Bein in den Verbandsaal. Nach jedem Sprung mussten wir ausruhen. Dr. Oberheuser gestattete niemanden,

uns irgendwelche Hilfe zu gewahren. Als wir im Operations-
saal in voellig erschopftem Zustand ankamen, erschien Dr.
Oberhaeuser und sagte uns, wir sollen in unser Zimmer zu-
rueckkehren, da die Verbaende heute doch nicht gewechselt
wuerden. Ich vermochte nicht zu gehen, aber eine Gefangene,
an deren Namen ich mich nicht mehr erinnere, half mir ins
Zimmer zurueck." (R. 822).

Das Leben von mindestens fuenf Menschen wurde in den Sulfonamid-
Versuchen geopfert, waehrend weitere sechs erschossen wurden, nachdem
sie die Operationen ueberlebt hatten. Alle ueberlebenden Opfer erlitten
schreckliche Schmerzen und wurden zu Krueppeln fuer Lebenszeit. Trots-
dem waren diese Versuche nicht einmal vom wissenschaftlichen Standpunkt
aus erfolgreich. Man hat von den Ergebnissen, wie sie von Gebhardt
und Fischer bei der dritten Tagung der Beratenden Aerzte der Wehrmacht
in der militaerärztlichen Akademie im Jahre 1943 vorgetragen wurden,
keinen Gebrauch gemacht, und medizinische Vorschriften wurden erlassen,
welche den Gebrauch von Sulfonamid weiterhin vorschrieben. (Gebhardt
Bew. 10, R. 4228-9). Die Sulfonamid-Versuche waren vollkommen unnuetig,
da aehnliche Ergebnisse durch die Behandlung von Infektionen, die
sich deutsche Soldaten im Laufe des Krieges normalerweise zuzogen,
haetten erzielt werden koennen. (Kostock, a. 3336, 3334).

Gebhardt behauptet nicht ernstlich, dass die Versuchsobjekte
sich freiwillig zur Verfuegung stellten. Er gab zu, dass er nicht
wusste, ob die Frauen eingewilligt haetten. Er erklaerte, dass er daran
nicht interessiert gewesen war. Er haette dies den "gesetzlichen Stellen"
ueberlassen. Er haette diese Angelegenheit mit Himmler nicht besprochen.
(Gebhardt, R. 4214). Unter gesetzlichen Stellen verstand Gebhardt
Himmler, der, wie er sagte, "die Macht hatte, Tausende von Menschen
mit einem Federstrich hinzurichten". (R. 4025). Gebhardt jedoch zeigte
ueberhaupt kein Interesse hinsichtlich der moralischen oder gesetzlichen
Natur dieser Macht. In einem Punkt seiner Zeugenaussage erklaerte er,
dass die Objekte keine Freiwilligen waren, sondern vom Staat dazu ge-
zwungen wurden, sich den Versuchen zu unterziehen. (R. 4064). An einer
anderen

Stelle waren sie "mehr oder weniger Freiwillige, verurteilte Personen". (R. 2021).

Gebhardts Verteidigung, wenn sie eines solchen Wortes fuer wuerdig erachtet werden kann, besteht vielmehr darin, dass die Polinnen wegen ihrer Teilnahme an einer Widerstandsbewegung zum Tode verurteilt waren und dass dadurch, dass sie sich freiwillig oder unfreiwillig, diesen Experimenten unterzogen, ihre Todesstrafen in eine geringere Strafe umgewandelt wurde, wobei sie wenigstens nicht hingerichtet wurden. Diese Vereinbarung wurde nicht mit den Versuchspersonen getroffen; sie wurden nicht um ihre wuensche in dieser Angelegenheit befragt. Nach Gebhardts Angaben blieb es der Gewissenhaftigkeit einer ungenannten Person ueberlassen darauf zu achten, dass die Todesstrafe an den Ueberlebenden dieser Versuche nicht vollzogen wurde. Gebhardt hat gewiss in dieser Angelegenheit keine Verantwortung uebernommen und nicht einmal Interesse daran gezeigt.

Die Anklagevertretung weist im Zusammenhang mit dieser vorgebrachten Verteidigung darauf hin, dass das Beweisverfahren zeigt, dass den Versuchspersonen, die vor diesem Gerichtshof ausgesagt haben, nicht einmal ein Gerichtsverfahren zugebilligt worden war; sie hatten keine Gelegenheit, sich gegen die Beschuldigung irgendwelcher Verbrechen, die sie begangen haben sollten, zu verteidigen. Sie wurden einfach verhaftet, durch die Gestapo in Polen vernommen und in ein Konzentrationslager verschickt. Sie wurden noch nicht einmal davon unterrichtet, dass sie zum Sterben ausersehen, nicht dazu verurteilt worden waren. (Kar., R. 831). Artikel 30 der Bestimmungen, die sich auf das Landkriegsrecht und -gebraeuche beziehen und die der Haager Konvention angegliedert sind, sieht ausdruuecklich vor, dass nicht einmal ein Spion "ohne vorheriges Urteilsverfahren bestraft werden darf". Die von Gebhardt vorgebrachte Verteidigung entbehrt daher jeder Grundlage.

Gebhardt wollte den Gerichtshof glauben machen, dass alle diese polnischen Maendchen tot waeren, wenn diese Versuche nicht durchgefuehrt worden waeren; dass er fuer die Erhaltung des Beweismaterials, das jetzt gegen ihn verwendet wird, gesorgt haette.

Nichts kann weiter von der Wahrheit entfernt sein. In den Akten liegt kein Beweis dafür vor, dass diese Frauen hingerichtet worden waren, wenn diese Versuche nicht mit ihnen angestellt worden waren. Die Zeugin Magzka ist ein lebender Beweis für das Gegenteil. Sie wurde wegen ihrer Tätigkeit in der Widerstandsbewegung am 11. September 1941 verhaftet und am 13. September nach Ravensbrück gebracht. (Magzka, R. 1433). Sie war keine Versuchsperson und doch lebt sie heute noch. Im wesentlichen kamen alle polnischen Versuchspersonen im September 1941 in Ravensbrück an. (B.P., R. 768; Kar., R. 816, Dz., R. 840). Diese Mädchen waren bis zum August 1942, als die Versuche begannen, nicht hingerichtet worden. Es war sogar - nach seiner Aussage - eine Überraschung für Gebhardt, dass sie überhaupt verwendet wurden, da im Juli 1942 die Versuche an Männern vorgenommen wurden. In diesem Transport waren ungefähr 700 polnische Mädchen. (NO-577, Ankl. Bew. 228, R. 918; Gebhardt, R. 4216). Es liegt kein Beweis dafür vor, dass eine grosse Anzahl je hingerichtet wurden, obwohl an den meisten von ihnen keine Versuche vorgenommen wurden.

Nein, das Beweisergebnis hat unstreitig gezeigt, dass diese Polinnen rechtlich nicht hätten hingerichtet werden können. Das Recht einer Begnadigung im Falle eines Todesurteils war durch eine Verfügung vom 1. Februar 1935, RGBl I, S. 74 (NO-3070, Ankl. Bew., R.) ausschliesslich Hitler vorbehalten. Am 2. Mai 1935 übertrug Hitler dem Reichsjustizminister das Recht, negative Entscheidungen über Begnadigungsgesuche zu fällen. (NO-3071, Ankl. Bew., R.). Am 30. Januar 1940, RGBl I, S. 399, übertrug Hitler dem Generalgouverneur der besetzten polnischen Gebiete die Vollmacht, Begnadigungen auszusprechen und abweisende Entscheidungen in Begnadigungsangelegenheiten für die besetzten polnischen Gebiete zu fällen. (NO-3072, Ankl. Bew., R.). Durch die Verfügung vom 8. März 1940, VOBl.-GG P I, C. 99, ordnete der Generalgouverneur für das besetzte

polnische Gebiet folgendes betreffend die Ausübung des Begnadigungsrechtes im Falle von Todesurteilen an:

"Die Vollstreckung eines Todesurteiles, das von einem allgemeinen Gericht, einem Sondergericht oder einem polizeilichen Standgericht gefällt wurde, darf erst dann erfolgen, wenn meine Entscheidung, von dem Begnadigungsrecht keinen Gebrauch machen zu wollen, ergangen ist." (NO-3073, Ankl. Bew. R.). (Unterstreichungen eingefügt).

Setzen wir einmal den Fall, dass die Versuchspersonen alle schwere Verbrechen begangen hatten, dass sie alle vor einem rechtmässig eingesetzten Gericht abgeurteilt worden waren, dass sie alle auf gesetzmässige Weise zum Tode verurteilt worden waren, so ist es doch nach den oben erwachten Verfügungen klar, dass diese Frauen nicht auf gesetzmässige Weise hätten hingerichtet werden können, bevor der Generalgouverneur fuer das besetzte polnische Gebiet in jedem Einzelfalle sich entschlossen hatte, von seinem Begnadigungsrechte keinen Gebrauch machen zu wollen. Es wurde nicht bewiesen, dass der Generalgouverneur hinsichtlich der Begnadigung der polnischen Frauen, die fuer die Versuche verwendet wurden, jemals eine Entscheidung getroffen hat, noch was das anbetrifft, bezueglich einer grosseren Anzahl solcher Frauen, die nicht fuer die Versuche verwendet wurden.

Der einzige Grund, warum diese 700 polnischen Frauen von Warschau und Lublin nach Ravensbruck gebracht wurden, war, dass der Generalgouverneur ihre Hinrichtung nicht genehmigt hatte. Sonst waren sie sofort in Polen hingerichtet worden. Zum mindesten waren diese Frauen dazu berechtigt gewesen, so lange unbehelligt zu bleiben, als der Generalgouverneur nichts unternommen hatte. Vielleicht haette er nie etwas unternommen oder, falls doch, haette er vielleicht eine Begnadigung aussprechen koennen.

Die eidesstattliche Erklaerung von Schiedlauský, dem Lagerarzt von Ravensbruck, zeigt, dass der Generalgouverneur zur Zeit, als die Versuche begannen, eine Begnadigung nicht abgelehnt hatte. Auf Seite 4 des Originals erklarte er:

"Als Versuchspersonen wurden Polinnen genommen, die von Standgerichten zum Tode verurteilt worden waren und ihre Exekution nach Bestaetigung des Urteils

durch den Generalgouverneur erwartet." (NO-508, Ankl. Bew. 223, R. 890).

An einer spaeteren Stelle auf Seite 15 des Originals sagte er:

"In Ravensbruck waren es nach meiner Schaeztung etwa 25 Frauen, die in meiner Amtszeit durch Erschiessen dort exekutiert wurden, hier handelte es sich ausschliesslich um Polinnen, die bereits Haeftlinge waren, deren Urteil oft erst nach langer Zeit durch den Generalgouverneur bestaetigt wurde."
(Unterstreichungen eingefuegt).

Schiedlauský war vom Dezember 1941 bis Mitte August 1943 in Ravensbruck. Waehrend dieses langen Zeitraumes waren nur 25 von ueber 700 polnischen Gefangenen durch eine Entscheidung des Generalgouverneurs fuer eine Hinrichtung ausgewählt worden. Wer kann behaupten, dass die Mehrzahl dieser 700 Polinnen den Krieg nicht ueberstanden haben, obwohl sie sich diesen Versuchen nicht unterzogen haben? Es oblag bestimmt der Verteidigung, das Gegenteil durch ueberwiegendes Beweismaterial nachzuweisen. Dies geschah nicht, keinerlei Beweise wurden dafuer vorgelegt.

Die Angeklagten Gebhardt, Fischer und Oberhaeuser koennen nicht behaupten, dass sie im guten Glauben waren, dass die polnischen Frauen haetten rechtmassig hingerichtet werden koennen. Selbst der Lagerarzt Schiedlauský wusste, dass der Generalgouverneur die Hinrichtung zu bestaetigen hatte. Dass eine solch grosse Zahl wie 700 Frauen in diesem fruhen Stadium des Krieges zum Tode verurteilt worden waren, war ueberdies ausreichend, um jede vernuenftige Person darauf aufmerksam zu machen, dass etwas nicht stimmte.

Ausserdem zeigt das ohne Widerspruch gebliebene Beweismaterial, dass das Ueberleben dieser Versuche absolut keine Garantie dafuer war, einer Hinrichtung auf alle Faelle zu entgehen. Mindestens sechs Versuchspersonen, die diese Versuche ueberlebt hatten, wurden hingerichtet. (Mazeka, R. 1449; B/P., R. 797; Dz., R. 845; Kus., R. 863). Die Namen der erschossenen polnischen Maedchen waren Pajackowska, Gans, Zielenka, Rakowska, Sobolowska und Gutek. (NO-873, ankl. Bew. 226, R. 906; NO-861, ankl. Bew. 232, R. 932).
Es war

nicht eine Frage von Versuch oder Hinrichtung sondern von Versuch und Hinrichtung.

Im Februar 1945 wurden tatsächlich Anstrengungen gemacht, alle Versuchspersonen hinzurichten. Es wurde ihnen befohlen, sich in einem Block zu melden und dort zu bleiben. Es wurde ihnen mitgeteilt, dass sie ins Konzentrationslager Gross-Rosen verbracht werden sollten, aber jedermann wusste, dass Gross-Rosen schon in den Haenden der Alliierten war. Daraus ersahen sie, dass sie hingerichtet werden sollten, und so nahmen sie andere Kenn-Nummern und versteckten sich. Dies war infolge der Verwirrung im Lager moeglich. (Magzka, R. 1450-1; Kus., R. 862-3; NO-876, Ankl. Bew. 225, R. 899; NO-877, Ankl. Bew. 228, R. 918).

Wenn man die Darstellung der Verteidigung woertlich nehmen wollte, so wuerde man tatsaechlich vom Gerichtshof verlangen, er solle entscheiden, dass militaeraerzte einer kriegfuehrenden Nation gesetzlich berechtigt seien, an politischen, zum Tode verurteilten Gefangenen eines besetzten Landes in solch einer art und weise Versuche anzustellen, dass sie den Tod, unsagbare Schmerzen, Verstueummelung und dauernde Invaliditaet zu erdulden haben - all das ohne ihre Zustimmung und in direkter Unterstuetzung des militaerischen Potentials ihres Feindes. Es besteht kein stichhaltiger Grund dafuer, solch eine Entscheidung auf Zivilkriegsgefangene zu beschaenken; die Versuche wuerden bestimmt nicht geringer gewesen sein, wenn sie an polnischen oder amerikanischen Kriegsgefangenen ausgefuehrt worden waeren. Es ist unmoglich, die von der Verteidigung nachgesuchte Entscheidung ernsthaft in Erwaegung zu ziehen.

B. KNOCHEN-, MUSKEL- UND NERVENREGENERIERUNGS- UND KNOCHENTRANSPLANTATION-VERSUCHE (Anklageschrift, Ziffer 6 (F)).

Diese Versuche wurden im Konzentrationslager Ravensbruck waehrend derselben Zeit und an der gleichen Gruppe von polnischen Gefangenen wie die Sulfonamid-Versuche ausgefuehrt. (Magzka, R. 1458).

Der Angeklagte Fischer macht in seiner eidesstattlichen Erklärung die folgende Aussage ueber diese Versuche:

"Nach der Ankunft von Dr. Stumpfegger vom Oberkommando des Heeres im Herbst 1942, erklärte Professor Gebhardt vor einigen seiner Mitarbeiter, dass er den Befehl erhalten habe, die Versuche in Ravensbruck in einem grosseren Massstabe fortzusetzen. Im Zusammenhang damit sollten Fragen der plastischen Chirurgie, die nach dem Kriege von Interesse sein würden, geklärt werden. Dr. Stumpfegger hatte die freie Verpflanzung von Knochen versuchen sollen. Da Professor Gebhardt wusste, dass ich infolge meiner Ernennung an der Universität an der Wiederherstellung von Geweben gearbeitet hatte, befahl er mir einen chirurgischen Plan fuer diese Operation vorzubereiten, zu dessen Durchfuehrung ich nach Genehmigung beauftragt wurde. Weiterhin wurden Dr. Koller und Dr. Heissmeyer angewiesen, ihre eigenen Experimentsserien auszufuehren. Professor Gebhardt dachte auch an einen Plan, um die Grundlage fuer eine operative Technik fuer die Wiederinstandsetzung von Gelenken zu formen. Neben den obengenannten nahmen Doktoren Schulze und Schulze-Haagen an dieser Sitzung teil.

"Da ich Ravensbruck kannte, wurde es mir befohlen, die neuen obengenannten Doktoren dem Lagerarzt vorzustellen. Ich wurde besonders angewiesen, Dr. Stumpfegger zu assistieren, da er als Arzt in Himmlers Stab wahrscheinlich von Zeit zu Zeit abwesend sein wurde.

"Ich hatte die Wiederherstellung von Muskeln einzig und allein darum erwahnt, da die fuer diesen Zweck notwendigen Einschnitte die leichtesten waren. Die Operationen wurden folgendermassen durchgefuehrt:

"Evipan und Aether wurden als Anaesthetie angewendet und 5 cm lange Einschnitte wurden an der Aussen Seite des Oberschenkels gemacht. Nach dem Durchschnitt durch die Faszie wurde ein Stueck des Muskels, welches die Grosse des letzten Gliedes eines kleinen Fingers hatte, herausgenommen. Die Faszie und Haut wurden der normalen Technik der aseptischen Chirurgie folgend eingeschlossen. Nachher wurde ein Gipsverband angelegt. Nach einer Woche wurde die Hauptwunde unter Narkose geoeffnet und der Teil des Muskels um die herausgeschnittene Gegend wurde entfernt. Nachher wurde die Faszie und der zugenaehte Teil der Haut in Gips immobilisiert." (NO-228, Ankl. Bew. 206, R. 767).

Die Verantwortlichkeit des Angeklagten Gebhardt fuer diese Experimente wird auch durch die eidesstattliche Erklärung von Oberheuser bewiesen. Sie erklärte:

"Die Experimente mit Knochentransplantationen wurden, soweit ich mich erinnern kann, Ende 1942 Anfang 1943 durch Dr. Stumpfegger aus Hohenlychen durchgefuehrt. Ich half und assistierte Dr. Stumpfegger in gleicher Form, wie ich Dr. Fischer bei den Sulfonamid-Experimenten half und wie ich es bereits in Punkt 4 dieses Affidavits beschrieben habe. Auch in diesem Fall hatte ich die ausgewaehlten Personen vor der Operation auf ihren Gesundheitszustand zu untersuchen. Die Operationen bestanden darin, dass ein Stueck Knochen aus der Schienbeinkante entfernt und an anderen Stellen eingesetzt wurde. 15 bis 20 Personen wurden fuer diese Experimente verwendet.

"Die fuer diese Experimente notwendigen Personen wurden von Dr. Schiedlausky beim Lagerkommandanten angefordert.

"Dr. Karl Gebhardt leitete die Sulfonamid-Experimente und die Knochentransplantationen. Es ist mir nicht bekannt, dass er selbst Operationen dieser Art durchgefuehrt hat. Ich weiss jedoch, dass alle diese Experimente unter seiner Leitung und Aufsicht und auf seine Anweisung durchgefuehrt wurden. Er wurde dabei ausser durch den bereits genannten Dr. Fischer und Dr. Stumpfegger durch Dr. Schiedlausky und Rosenthal unterstuetzt. Auch zu diesen Versuchen wurden lediglich gesunde polnische Gefangene verwendet.

"Ich kann mich nicht erinnern, dass nur eine einzige von den verwendeten Versuchspersonen nach Durchfuehrung der Experimente begnadigt worden ist." (NO-487, Ankl. Bew. 208, R. 780).

Die Zeugin Maczka, die ihren Dokortitel an der Medizinischen Fakultet der Universitaet Krakau erhielt und eine praktizierende Aerztin ist, gab als Zeugin an, dass sie im Laufe ihrer Taetigkeit als Roentgonologin im Konzentrationslager Ravensbruck Gelegenheit hatte, ungefaehr 13 Faelle zu beobachten, bei denen an den Knochen von Insassen zu Versuchszwecken Operationen vorgenommen worden waren. Es waren drei Arten von Knochenoperationen - Brueche, Knochentransplantationen und Knochen-schienen. An den polnischen Maedchen wurden in manchen Faellen mehrere Operationen vorgenommen. Im Falle Crystyna Dabska machte Maczka Roentgenaufnahmen von beiden Beinen und bemerkte, dass kleine Stuecke des Wadenbeines entfernt worden waren. Bei einem Bein war auch die Knochenhaut herausgenommen worden. An Zofia Baj wurde eine sehnliche Operation vorgenommen. Janina Larczewska und Leonarda Bien mussten sich den

Knochenbruchversuchen unterziehen. Das Schienbein wurde an mehreren Stellen gebrochen, und bei einem Mädchen wurden Klammern angelegt, während dies beim anderen nicht geschah. Diese Operationen verhinderten die Fortbewegungsmöglichkeit der operierten Mädchen. Knocheneinschnittoperationen wurden an Barbara Pietczyk, einem polnischen Mädchen von 16 Jahren vorgenommen. Sie wurde sechsmal operiert. Während der ersten Operation wurden Einschnitte in jedem Schienbein gemacht. Bei einer späteren Operation wurden Stücke des Schienbeines, wo vorher Einschnitte gemacht worden waren, herausgeschnitten. Magzka machte eine Röntgenaufnahme der herausgenommenen Schienbeinstücke. Als Folge dieser Knochenoperationen beobachtete Magzka die Entwicklung zweier Fälle von Osteomyelitis: an Maria Grabowska und an Maria Gabaj. (Magzka, R. 1445-7).

Eine ziemlich grosse Anzahl von Muskelversuchen wurde durchgeführt. Auch hier wurden viele Operationen wieder an ein und derselben Versuchsperson ausgeführt. An Gledziejowska wurden die meisten Operationen vorgenommen. Während der ersten Operation wurden gewisse Muskeln herausgenommen, und während der folgenden Operationen wurden weitere Stücke herausgeschnitten, immer an derselben Stelle, sodass die Beine fortwährend dünner und schwächer wurden. (Magzka, R. 1447).

Auch Transplantationen ganzer Gliedmassen von einer Person auf die andere wurden durchgeführt. Magzka sagte aus, dass ungefähr 10 schwachsinnige Insassen ausgewählt, ins Lazarett gebracht und für eine Operation vorbereitet wurden. Sie persönlich wusste, dass wenigstens zwei dieser Leute operiert worden waren. Bei einem Fall handelte es sich um eine Beinamputation. Nach dieser Operation wurde die Versuchsperson getötet und in einen besonderen Raum gebracht, wo die Toten aufbewahrt wurden. Magzka konnte den Leichnam sehen und bemerkte, dass nur ein Bein vorhanden war. Im zweiten Falle wurde eine abnormale Frau von Dr. Fischer operiert. Als er den Operationssaal verliess, trug er

ein in Leinen eingewickeltes Bündel, ungefähr in der Grösse eines Armes, das er mit sich nahm. Die Gefängniskrankenschwester Quernheim teilte Lagzka mit, dass dieser Frau der ganze Arm mit dem Schulterblatt abgenommen worden war. (Lagzka, R. 1448).

Die von Dr. Lagzka erwähnte Amputation des Armes und des Schulterblattes bezieht sich offensichtlich auf die Transplantation, welche an dem Patienten Ladisch in Hohenlychen vorgenommen wurde. Dazu bemerkte der angeklagte Fischer in seiner eidesstattlichen Erklärung folgendes:

"Als Juenger von Loxer hatte Gebhardt schon lange geplant, eine freie heteroplastische Verpflanzung von Knochen vorzunehmen. Trotzdem einige seiner Mitarbeiter damit nicht einverstanden waren, war er entschlossen, so eine Operation an dem Patienten Ladisch vorzunehmen, dessen Schultergelenk wegen eines Sarkoms entfernt worden war.

"Ich und meine ärztlichen Kollegen erhoben professionelle und menschliche Einwände bis zum Abend, an dem die Operation durchgeführt wurde. Aber Gebhardt befahl uns die Operation durchzuführen. Dr. Stumpfegger, in dessen Forschungsgebiet die Operation lag, sollte die Entfernung der scapula (Schulterblatt) in Ravensbruck vornehmen und hatte daher schon spezielle Vorbereitungen getroffen. Da jedoch Professor Gebhardt Dr. Stumpfegger benötigte, um ihm in der tatsächlichen Verpflanzung der Schulter an dem Patienten Ladisch zu helfen, wurde es mir aufgetragen, nach Ravensbruck zu gehen, um die Entfernungsoperation noch an diesem Abend vorzunehmen. Ich bat Dr. Gebhardt und Dr. Schulze mir das genaue Vorgehen zu beschreiben, dem ich folgen sollte. Am nächsten Morgen fuhr ich nach Ravensbruck, nachdem ich eine vorhergehende telefonische Verabredung getroffen hatte. In Hohenlychen hatte ich schon die für eine Operation notwendigen Vorbereitungen getroffen, nämlich Scheuern und so weiter, zog nur meinen Mantel an und ging nach Ravensbruck, um den Knochen zu entfernen.

"Der Lagerarzt, der mir bei der Operation assistierte, fuhr mit derselben fort, während ich so schnell wie möglich mit dem Knochen, welcher verpflanzt werden sollte, nach Hohenlychen zurückkehrte. Auf diese Weise wurde der Zeitunterschied zwischen der Entfernung und der Verpflanzung verkürzt. Der Knochen wurde Professor Gebhardt in Hohenlychen überreicht und er, zusammen mit Dr. Schulze und Dr. Stumpfegger verpflanzte ihn." (NO-228, Ankl. Bew. 206, R. 767).

Gebhardt gab zu, dass er zusammen mit Stumpfegger persönlich die Knochentransplantation-Operation an Ladisch vorgenommen hatte. Er sagte ferner aus, dass Fischer nur das Schulterblatt von der polnischen Gefangenen in Ravensbruck entfernt habe. (Gebhardt, R. 4235). Es ist unmöglich, den Arm ueber die Horizontale zu heben, wenn das Schulterblatt entfernt worden ist. (Gebhardt, R. 4235). Gebhardt gab weiterhin zu, dass Stumpfegger ihm ueber die Knochenversuche im Konzentrationslager Ravensbruck berichtet hat. (R. 4235).

Die eidesstattliche Erklaerung der Gustawa Winkowska bekraeftigt die Zeugenaussage der Magzka betreffend die Verpflanzung ganzer Gliedmassen. und beweist, dass die Versuchspersonen spaeter getoetet wurden. (NO-865, Ankl. Bew. 231, R. 930).

Die Zeugin Karolewska war eine Versuchsperson sowohl bei den Sulfonamid-als auch bei den Knochenversuchen. (Alexander R. 833, 836-7). Sie wurde im ganzen sechsmal operiert. Die erste Operation wurde am 14. August 1942 von Fischer durchgefuehrt. (R. 819). Gebhardt untersuchte sie Anfang September. (R. 821). Sie wurde am 8. September 1942 zu ihrem Block zurueckgeschickt, aber konnte nicht gehen und blieb eine Woche lang im Bett. Am 16. September 1942 wurde sie wieder ins Lazarett gebracht und von Fischer ein zweites Mal operiert. (R. 821-2). Sie verliess am 6. Oktober 1942 das Lazarett und blieb mehrere Wochen im Bett. Ihr Bein heilte erst im Juni 1943. (R. 822-3). Im Februar 1943 reichte sie eine schriftliche Beschwerde zusammen mit anderen Haefdling-Versuchspersonen beim Lagerkommandanten ein. Im August 1943 wurde sie buchstaeblieh mit Gewalt im Bunker von Ravensbruck operiert. Ihre beiden Beine wurden aufgeschnitten. Diese Operationen wurden an fuenf anderen polnischen Laedchen unter unbeschreiblich schmutzigen Bedingungen durchgefuehrt. (R. 827). Am 15. September 1943 wurde eine weitere Operation

an ihrem rechten Bein von einem Doktor aus Hohenlychen durchgeführt. Zwei Wochen später wurde sie an ihrem linken Bein operiert, und Stücke des Schienbeines wurden entfernt. Sie blieb 6 Monate lang bis Ende Februar 1944 im Lazarett. (R. 828-9). Karolewska identifizierte die Angeklagten Gebhardt, Fischer und Oberhauser als Mitbeteiligte an den an ihr durchgeführten Versuchen. (R. 818, 830).

Der Angeklagte Fischer nahm bis mindestens 23. Februar 1943 an diesen Experimenten teil. An diesem Tag führte er eine zweite Operation an Zofia Baj durch. (NO-371, Ankl. Bew. 227, R. 913).

Die widerlichste Reihe von Operationen waren jene, die im August 1943 im Bunker durchgeführt wurden. Die ausgewählten polnischen Mädchen hatten revoltiert und sich geweigert, sich im Lazarett zu melden. Der Barackenblock, in welchem sie sich verbarrikadiert hatten, wurde dann von männlichem Wachpersonal umzingelt, welche diese Frauen gewaltsam in das Lagergefaengnis schafften, das als der Bunker bekannt war, und wo sie von diesem männlichen Wachpersonal niedergehalten wurden und gewaltsam anaesthetisiert wurden, ohne jede voroperative Behandlung, während ihr Körper noch vom Herumgehen im Lager in verschmutztem Zustand war. Die Versuchsperson Piasecka erwähnt folgendes in ihrer eidesstattlichen Erklärung:

"Ich widerstand und schlug Trommer in das Gesicht und nannte ihn einen Banditen. Er rief einige SS-Wachposten, welche mich auf den Boden warfen und mich niederhielten, während Äther über mein Gesicht gegossen wurde. Ich bekam keine Maske. Ich kämpfte und leistete Widerstand, bis ich mein Bewusstsein verlor. Ich war vollkommen angezogen und meine Beine waren furchtbarlich schmutzig vom Umhergehen im Lager. Soviel ich weiss, sind meine Beine nicht gewaschen worden. Während dieser Zeit sah ich meine Schwester, welche bewusstlos auf einer Tragbahn lag und Schleim erbrach." (NO-364, Ankl. Bew. 229, R. 923).

Piasecka gab an, dass diese Operation von Dr. Villmann, der Assistenzarzt in Hohenlychen war, ausgeführt worden war. Ein paar Wochen später kamen zwei andere Assistenzärzte Dr. Gebhardt

und operierten sie am rechten Bein. (NO-864, siehe oben).

In seiner Zeugenaussage versuchte Gebhardt, sich von diesen Versuchen zu distanzieren. Er gab jedoch zu, dass er von Stumpfegger ueber die Versuche gehoert hatte. (R. 4082, 4087-9). Stumpfegger war ein ehemaliger Assistent Gebhardts und hielt sich waehrend dieser Versuche in Hohenlychen auf. Fischer assistierte bei Stumpfegger und Gebhardt. (Gebhardt R. 4230, 4090). Aus Fischers eigener eidesstattlichen Erklaerung geht ferner hervor, dass der Plan fuer die Versuche mit Wissen und Genehmigung Gebhardts ausgearbeitet wurde.

C. Andere Versuche.

Das Beweismaterial zeigt, dass Gebhardt eine bedeutende Rolle in anderen verbrecherischen Versuchen an Konzentrationslagerinsassen spielte.

(1) Hoehen- und Kaelteversuche (Anklageschrift Ziffer 6 (a) und (B).

Der verbrecherische Charakter der Hoehenversuche ist in dem Schriftsatz der Anklagebehoerde ueber Ruff, Homberg und eltz auseinandergesetzt, waehrend die Kaelteversuche in dem Schriftsatz ueber Sievers beschrieben sind.

Gebhardt wurde ueber die Einzelheiten der Hoehen- und Kaelteversuche auf dem Laufenden gehalten und bot in der Tat Rascher seine Hilfe an. Am 11. November 1942 teilte der Angeklagte Rudolf Brandt Gebhardt mit, dass Rascher bald von der Luftwaffe zur Waffen-SS versetzt werde, und auf Grund von Instruktionen Himmlers sollte Rascher Gebhardt ueber seine Versuche Bericht erstatten. Der Brief besagte ausserdem, dass Rascher in Dachau Hoehen- und Kaelteversuche geleitet habe und dass weitere Kaelteversuche ausgefuehrt werden sollten. (NO-314, Ankl. Bew. 98, R. 330).

Es ist von Wichtigkeit zu vermerken, dass Rascher die Instruktion hatte,

Gebhardt Bericht zu erstatten, der zu jener Zeit selbst die Sulfonamidversuche in Ravensbruck ausfuehrte. Ganz offensichtlich bekleidete Gebhardt bei Himmler im bezug auf Versuche an Menschen eine sehr verantwortungsvolle und vertrauliche Stellung.

Am 16. April 1943 bestaetigte Rudolf Brandt in einem Brief an Rascher den Empfang eines Berichtes ueber Trocken-Kaelteversuche und instruierte Rascher, Gebhardt einen Bericht zu erstatten, der bereits eine Abschrift seiner Abhandlung ueber die Kaelteversuche erhalten hatte. (NO-241, Ankl. Bew. 113, R. 355). Eine Abschrift des Berichtes selbst ist nicht vorhanden, aber es ist aus Raschers Brief vom 4. April 1943 bekannt, dass er die Trocken-Kaelteversuche betraf, die er infolge einer aussergewoehnlich kalten Wetterperiode in Dachau anstellen konnte. Dieser Brief besagte, dass "gewisse Leute" bei einer Temperatur von -6 Grad Celsius 14 Stunden lang im Freien waren und dass ihre innere Temperatur auf 25 Grad Celsius absank, mit dem Erfolg, dass ihre aeusseren Gliedmassen erfroren. (NO-292, Ankl. Bew. 111, R. 354).

Am 14. Mai 1943 berichtete Rascher persoendlich Gebhardt in Hohenlychen ueber seine Dachauer Versuche. Gebhardt tadelte Rascher, weil er die Resultate seiner Versuche Himmler direkt vorgelegt habe, und erklarte, es sei seine Pflicht, "alle Aerztgruppen, die unabhaengig innerhalb der SS arbeiteten, zusammenzufassen, da dies dem Reichsfuehrer viel besser passe, als fuer sich arbeitende Einzelpersonen". Gebhardt ermunterte Rascher, sich an einer Universitaet ausbilden zu lassen, und sagte ihm, dass in Zukunft die Berichte "durch ihn an den Reichsfuehrer gesandt werden muessten". Gebhardt ersuchte Rascher, ihm Angaben ueber seine persoentliche und wissenschaftliche Laufbahn vorzulegen. Als Gebhardt Bedenken ueber den wissenschaftlichen Charakter von einigen der Rascherschen Experimente aeusserte,

erwiderte Rascher, dass "die gesamten physiologisch-chemischen Versuche, die in Dachau ausgeführt werden konnten, auch in der Tat durchgeführt worden waren". (NO-231, Ankl. Bew. 116, R. 360). Rascher empfing von dieser Unterhaltung den Eindruck, dass er in der Tat fuer Gebhardt arbeitete und dass fuer weitere Versuche seine Genehmigung eingeholt werden muesse.

Rascher - von Gebhardts Rat, die Universitätslaufbahn zu ergreifen, beeindruckt - beschloss, um Zulassung als Privatdozent einzukommen und wahlte die Hoehen- und Kaelteversuche als Thema fuer seine Habilitationsschrift. Die Geschichte seiner aerztlichen Taetigkeit, die er zu diesem Zweck schrieb, wurde am selben Tag, an dem er Sievers ueber seine Unterhaltung mit Gebhardt Bericht erstattete, niedergeschrieben. (NO-230, Ankl. Bew. 115, R. 356).

Am 11. Juni 1943 schrieb Gebhardt an Rudolf Brandt, dass er mit Rascher gesprochen habe und dass sie "sich rasch geeinigt haetten".

Der Brief fuhr fort:

"Er (Rascher) betont selbst, dass die bisherigen Resultate noch unvollkommen sind und weiterer Auswertung beduerfen. Dies ist aber erst dann moeglich, wenn die notwendigen Apparate fuer die Arbeit zur Verfaegung stehe. Rascher hat dies in seinem Brief auseinandergesetzt. Ich bitte nun zu ueberpruefen, ob von Ihnen aus ueber das "Ahnenerbe" oder von mir aus Schritte zu unternehmen sind, dass Rascher die noetigen Apparaturen zugeteilt bekommt. Erst wenn diese Voraussetzungen gegeben sind, kann weitvolle wissenschaftliche Arbeit geleistet werden." (NO-232, Ankl. Bew. 459, R. 4237).

(2) Polygal-Versuche.

Gebhardt arbeitete auch mit Rascher an den Polygal-Versuchen.

Polygal war der Name, der einem von Rascher in Dachau entwickelten Blutgerinnungsmittel gegeben wurde. Um die Wirksamkeit dieses Gerinnungsmittels zu pruefen, fuehrte er Versuche aus, in welchen Lagerinsassen erschossen wurden. (NO-438, Ankl. Bew. 240, R. 956; NO-1424, Ankl. Bew. 462, R. 4773; Stoehr, R. 587). Gebhardt wurde von Himmler ueber Raschers Forschungen mit Polygal befragt, und Gebhardt ueberzeugte ihn, dass weitere Versuche unter seiner Oberraufsicht noetig seien. (NO-612,

Ankl. Bew. 241, R. 961). Gebhardt gab waehrend seiner Zeugenaussage zu, dass er wusste, dass Rascher Blutgerinnungsversuche an Konzentrationslagerinsassen, die zu diesem Zweck erschossen worden waren, ausgefuehrt habe. (Gebhardt, R. 4240-1).

(3) Sepsis - (Phlegmon) - Versuche.

Sepsisversuche wurden vom Herbst des Jahres 1942 an im Dachauer Konzentrationslager ausgefuehrt. Diese Versuche wurden angestellt, um die Wirksamkeit der biochemischen Behandlung der Sepsis und verwandter Krankheiten zu pruefen.

Der Zeuge Stoehr machte Aussagen bezueglich dieser Versuche. Er erklarte, dass die Sepsis kuenstlich hervorgerufen wurde, indem man die Konzentrationslagerinsassen, die als Versuchspersonen gebraucht wurden, mit Eiter infizierte. (R. 578-9). Er wusste von mindestens zwei Versuchsreihen. In jeder dieser Versuchsreihen wurde ungefaehr die Haelfte der Versuchspersonen mit biochemischen Mitteln behandelt, und die andere Haelfte mit Sulfonamid. Die erste Reihe bestand aus 20 deutschen Konzentrationslagerinsassen, von denen 7 an den Folgen starben. Fuer die zweite Reihe wurden 40 Geistliche verschiedener Nationalitaet ausgewaehlt, und 12 starben infolge der Versuche. (Stoehr, R. 581-2). Die Versuchspersonen meldeten sich nicht freiwillig. (Stoehr, R. 590). Siehe auch die Uebersicht der Verhandlungen des Haupt-militaergerichtshofes in Sachen Vereinigte Staaten contra Weiss und Genossen. (NO-856, Ankl. Bew. 125, R. 386).

Es ist ganz klar, dass die in Dachau angestellten biochemischen Versuche eine Ergaenzung der Gebhardtschen Sulfonamid-Versuche in Ravensbruck waren. Dies ergibt sich aus der Tatsache, dass Gebhardt im September 1942, waehrend die Sulfonamid-Versuche noch vor sich gingen, von Grawitz Abschrift eines Berichtes ueber die biochemischen Versuche in Dachau erhielt. (NO-409, Ankl. Bew. 249, R. 979). Dieser Bericht zeigt klar, dass ungefaehr 8 Sepsisfaelle kuenstlich hervorgerufen wurden. Der Bericht behandelte die Resultate von Versuchen an 40 Konzentrationslagerinsassen,

die unter anderem wegen Sepsis, Phlegmonen, Furunkeln, Abszessen und Nekrosis behandelt wurden. Zehn der Versuchspersonen starben. Der Bericht behandelte auch drei Sepsisfälle in Auschwitz, von denen alle starben. Er schloss mit der Feststellung, dass die Versuche fortgesetzt wurden.

Die Krankengeschichte einer der im November 1942 künstlich mit Eiter infizierten Versuchspersonen zeigt die graesslichen Schmerzen, die diese Opfer litten. (NO-994, Ankl. Bew. 251, R. 985).

Dass die Angeklagten Gebhardt und Fischer mehr als eine oberflächliche Verbindung mit den Sepsisversuchen in Dachau hatten, wird erwiesen, durch eine handschriftliche Anmerkung Gebhardts in einem am 7. September 1942 von Grawitz an Himmler geschriebenen Brief, dem Abschriften des vorläufigen Berichtes Gebhardts ueber die Sulfonamid-Versuche zusammen mit dem Bericht ueber die Dachauer Sepsisversuche beigelegt sind. (NO-2734, Ankl. Bew. 473, R. 5622). Diese Bemerkung lautet folgendermassen:

"16. September 1942.
Erledigt, nach Unterhaltung
mit RF-SS. Obersturmfuehrer
F. Fischer hat neue
Instruktionen fuer Ravensbruck
und Dachau erhalten. Gebhardt".
(Unterstreichung eingefuegt)

(4) Unfruchtbarmachungsversuche (Anklageschrift, Ziffer 6 (I)).
an.

Gebhardt nahm auch an den/juedischen Konzentrationslagerinsassen ausgefuehrten verbrecherischen Unfruchtbarmachungsversuchen teil. Im Jahre 1941 war die Ausrottung der juedischen Bevoelkerung Deutschlands und der besetzten Laender zur anerkannten Politik des Dritten Reiches geworden. (Urteil des Internationalen Militaergerichtshofes, R. 16902 u. ff.).

Am 30. Mai 1942 schrieb Dr. Clauberg an Himmler und bat um seine Unterstuetzung bei Unfruchtbarmachungsversuchen an weiblichen Konzentrationslagerinsassen. (NO-211, Ankl. Bew. 169, R. 564). Dieser Brief enthaelt eine handschriftliche Anmerkung wie folgt, "Mittwoch, den 8. Juli". Am 7. und 8. Juli fand zwischen Himmler, Gebhardt, Gluecks und Clauberg eine Konferenz statt. Verhandlungsgegenstand war die Unfruchtbarmachung von Juedinnen. Es wurde Clauberg versprochen,

dass ihm das Konzentrationslager Auschwitz zu Versuchen an Menschen und Tieren zur Verfaegung gestellt werde. Er sollte durch grundlegende Versuche eine Methode zur Unfruchtbarmachung von Personen ohne deren Wissen entdecken. Ein Bericht ueber diese Angelegenheit sollte sobald wie moeglich vorgelegt werden, sodass Massregeln "fuer die praktische Ausfuhrung der Unfruchtbarmachung im groesseren Masstabe" ergriffen werden koenn-ten. Die Befragung Hohlfelders ueber die Unfruchtbarmachung von Maennern durch Roentgenstrahlen wurde auch angeregt. Den Teilnehmern an der Konferenz wurde eingeschaeft, dass diese Versuche auf das strengste geheim zu halten seien. Die Notizen fuer die Akten ueber diese Konferenzen wurden von dem angeklagten Rudolf Brandt unterzeichnet. (NO-216, Ankl. Bew. 170, R. 565; NO-215, Ankl. Bew. 172, R. 568). Das Einzige, was der Angeklagte Gebhardt diesem Beweis gegenueber tun konnte, war, abzuleugnen, dass er bei solchen Versammlungen anwesend war.

Am 10. Juli 1942 wurde Clauberg befohlen zu berichten, wie lange es dauern wuerde, 1000 Jaedinnen nach seiner Methode unfruchtbar zu machen. In diesem Brief wurde angeregt, die Experimente im Konzentrationslager Ravensbruck vorzunehmen, wo Gebhardt gerade seine Sulfonamid-Versuche begann. (NO-213, Ankl. Bew. 171, R. 567). Am 7. Juni 1943 konnte Clauberg auf Grund seiner Versuche berichten, dass man nach seiner Methode taeglich mehrere hundert, wenn nicht gar 1000 Personen taeglich sterilisieren koenne. Er erklarte, die Unfruchtbarmachung koenne "durch eine einzige vom Eingang des Uterus im Laufe der gewoehnlichen gynaekologischen Untersuchung ausgefuehrte Einspritzung vorgenommen werden". (NO-212, Ankl. Bew. 173, R. 570). Claubergs Unfruchtbarmachungsversuche wurden in der Tat im Auschwitzer Konzentrationslager ausgefuehrt, wie aus seinem Brief an den Angeklagten Rudolf Brandt vom 6. August 1942 hervorgeht, in dem er eine zweite Roentgeneinrichtung fuer seine Versuche in Auschwitz anforderte. (NO-210, Ankl. Bew. 174, R. 572).

Versuche ueber Unfruchtbarmachung maennlicher Konzentrationslagerinsassen wurden auch im Auschwitzer Konzentrationslager in grossem Masse mit Hilfe von Röntgenstrahlen und chirurgischer Entmannung ausgefuehrt. (Levy, R. 556-9). Die Unfruchtbarmachung mittels pharmazeutischer Praeparate wurde auch versucht. (NO-036, Ankl. Bew. 143, R. 512).

(5) Meerwasser-Versuche.

Gebhardts Stellung in bezug auf aerztliche Versuche an Konzentrationslagerinsassen wurde so bedeutsam, dass am 15. Mai 1944 Himmler ein Gutachten von Gebhardt verlangte, bevor irgendwelche Experimente an Insassen ausgefuehrt werden konnten. Dieser Befehl Himmlers besagte, dass alle in Konzentrationslagern ausgefuehrten Versuche seine persoenliche Genehmigung haben muessten. Alle Stellen innerhalb der SS, die es fuer notwendig fanden, aerztliche Versuche in den Konzentrationslagern auszufuehren, mussten Grawitz, dem Reichsarzt SS und Polizei, ein Gesuch vorlegen. Dieses Gesuch musste das betreffende Problem beschreiben, die Wirkung der auszufuehrenden Versuche, die Zahl der erforderlichen Gefangenen und die ungefaehre Dauer des Versuches. Grawitz musste ein solches Gesuch Himmler vorlegen, nachdem er bezueglich der technischen Seite das Gutachten des obersten Sanitaetsoffiziers der SS (Gebhardt) und die Gutachten von Nebe und Gluecks eingeholt hatte. (NO- 919, Ankl. Bew. 460, R. 4244). Nebe war der Leiter der Kriminalpolizei in dem RSHA, waehrend Gluecks unter Oswald Pohl im Wirtschafts- und Verwaltungshauptamt der SS fuer alle Konzentrationslager verantwortlich war.

Es ist selbstverstaendlich, dass der Angeklagte Gebhardt von allen nach dem 15. Mai 1944 an Konzentrationslagerinsassen ausgefuehrten Versuchen Kenntnis hatte und seine Zustimmung dazu gab. Es ist ersichtlich, dass er auch ueber Versuche, die damals im Gange waren, vollstaendig unterrichtet war, da er sonst nicht in der Lage gewesen waere, ueber die Notwendigkeit neuer Versuche ein fachliches Urteil abzugeben.

Die Meerwasserversuche waren Gegenstand einer Konferenz von Sanitäts-offizieren der Luftwaffe am 23. Mai 1944. Auf dieser Konferenz wurde beschlossen, dass Versuche noetig seien, um die Trinkbarkeit von Meerwasser zu pruefen, das nach einer neuen Methode behandelt worden war. Da mit Todesfaellen waehrend des Laufes der Versuche gerechnet wurde, wurde beschlossen, die Versuchspersonen von Himmler zu verlangen. An Himmler wurde ein Bericht ueber diese Konferenz geschickt, und eine handschriftliche Notiz am Ende des Berichtes zeigt, dass er an Gebhardt weitergegeben wurde. Diese Gebhardtsche Notiz besagt, dass "Asoziale Zigeuner" von dem RSHA (Reichs-Sicherheits-Hauptamt) geliefert werden sollten. (NO-177, Ankl. Bew. 133, R. 483).

Am 28. Juni 1944 schrieb Grawitz gemass Himmlers Befehl vom 15. Mai 1944 an Himmler und gab ihm die Kommentare Gebhardts, Gluecks' und Nebes ueber die vorgeschlagenen Meerwasserversuche. Gebhardts Kommentar war: "Ich halte es fuer absolut richtig, die Luftwaffe in jeder Weise zu unterstuetzen und einen Generalarzt deraffen-SS zwecks Ueberwachung der Versuche zur Verfuegung zu stellen". Nebe befuerwortete Gebhardts Anregung, Zigeuner zu verwenden; dem widersprach Grawitz, weil sie von einer von den Deutschen verschiedenen rassischen Beschaffenheit seien. Himmler billigte die vorgeschlagenen Versuche an Zigeunern und 3 anderen zu Kontrollzwecken. (NO-179, Ankl. Bew. 135, R. 485).

Fuer eine Beschreibung des verbrecherischen Charakters dieser Versuche wird auf den Schriftsatz der Anklagebehoerde ueber Schroeder verwiesen.

(6) Gas-Versuche (Anklageschrift, Ziffer 6 (D)).

Die von Hirt an Insassen des Konzentrationslagers Mauthausen ausgefuhrten Lost-Gas-Versuche dauerten von November 1942 bis zum Herbst 1944. (Holl, R. 1051 u. ff.). Sievers hatte volle Kenntnis von den Hirtschen Versuchen (NO-015, Ankl. Bew. 275, R. 1039), und er empfing eine Abschrift von Himmlers

Befehl vom 15. Mai 1944, der Gebhardts Erlaubnis fuer Versuche nach jenem Zeitpunkt verlangte. Neue Anforderungen von Gefangenen durch Hirt mussten notwendigerweise zur Kenntnis Gebhardts gelangen. Fuer eine Beschreibung des verbrecherischen Charakters dieser Versuche wird auf den Schriftsatz der Anklagebehoerde ueber Sievers verwiesen.

Am 22. November 1944 schrieb Grawitz an Himmler und schlug Versuche an Insassen vor, um die Wirkung eines als "N-Stoff" bekannten Gases auf und durch die menschliche Haut zu pruefen. Gemass dem Befehl vom 15. Mai 1944 billigte Gebhardt die Versuche mit den folgenden Worten:

"Bin selbstverstaendlich mit Vorschlag einverstanden und darf bitten, dass die Anordnungen der Durchfuhrungsueberwachung unmittelbar vom Reichsarzt SS und Polizei gegeben werden".
(NO-005, Ankl. Bew. 279, R. 1043).

(7) Epidemische Gelbsucht (Anklageschrift, Ziffer 6, (H)).

Am 29. Januar 1945 schrieb Krugowsky an Grawitz und bat um seine Genehmigung zu Versuchen ueber epidemische Gelbsucht an 20 geeigneten Gefangenen in der Fleckfieber-Versuchsstation in Buchenwald. Er erklarte, dass Versuche an Menschen notwendig seien, um festzustellen, ob ein von SS Dr. Dressel gezuechteter Virus der bei der Hepatitis epidemica wirksame Virus sei. Generalarzt Schreiber unterstuetzte diese Forschungen.
(NO-1303, Ankl. Bew. 467, R. 5400).

Der Himmler-Befehl vom 15. Mai 1944 machte es erforderlich, dass diese Eingabe um die Vornahme von Gelbsuchtversuchen von dem Angeklagten Gebhardt genehmigt werde.

(8) Giftversuche (Anklageschrift, Ziffer 6 (K)).

Eine Beschreibung des verbrecherischen Charakters der Giftversuche ist in dem Schriftsatz der Anklagebehoerde ueber Krugowsky enthalten.

Am 11. September 1944 fuhrten Krugowsky und Ding an 5 Insassen des Konzentrationslagers Sachsenhausen ein Experiment mit Aconitinmitrat-Geschossen aus. Den Versuchspersonen

wurden mit Geschossen, die mit kristallisiertem Gift gefüllt waren, in den oberen Teil des Schenkels geschossen. Drei der Versuchspersonen starben nach einem 2 Stunden dauernden, schrecklichen Todeskampf, (NO-201, Ankl. Bew. 290, R. 1303; Kogon, R. 1186). Weitere Giftversuche wurden im Konzentrationslager Buchenwald im Oktober 1944 an 6 russischen Kriegsgefangenen ausgeführt. Alle Versuchspersonen wurden getötet. (Kogon, R. 1184-6; NO-265, Ankl. Bew. 287, R. 1317, Eintrag fuer den 26. Oktober 1944).

Diese beiden Versuche wurden nach dem Befehl vom 15. Mai 1944 ausgeführt, und Gebhardts Genehmigung war ein notwendiges Erfordernis.

(9) Verschiedenes.

Die Malaria-Experimente in Dachau und die Gelbfieber-Experimente in Buchenwald und Natzweiler wurden weit ueber den Mai 1944 hinaus durchgeführt. Erneute Anforderungen von bei diesen Versuchen nach jenem Zeitpunkt verwandten Insassen waren gemass dem Befehl vom 15. Mai 1944 von Gebhardts Genehmigung abhaengig. Ausserdem standen Grawitz und ihm unterstellte Personen mit diesen Versuchen und auch mit den Brandbombenversuchen in Buchenwald im November 1943 in enger Verbindung, und Gebhardt, als einer der leitenden Beamten im Buero von Grawitz, muss von diesen Versuchen unterrichtet gewesen sein. Selbst angenommen, dass Gebhardt mit den Einzelheiten dieser Versuche nicht vertraut war, so hat das Beweismaterial doch ueber allen Zweifel hinaus festgestellt, dass er mit Plannen und Unternehmungen in Verbindung stand, die die systematische Vornahme von Versuchen an unfreiwilligen Versuchspersonen einschloss, und er ist deshalb im Sinne des Abschnitts 2 des Paragraphen II des Kontrollrats-Gesetzes Nr. 10 fuer diese Versuche verantwortlich.

III. Schluss.

Gebhardt begann persoenlich die Sulfonamid-Versuche und nahm die volle Verantwortlichkeit fuer sie auf sich. Er fuehrte einige der an den als Versuchsobjekte gebrauchten, polnischen Frauen vorgenommenen Operationen und kuenstlichen Infizierungen aus. Fuenf der Versuchspersonen starben als direkte Folge der Versuche. Seine Behauptung, dass die polnischen Opfer, von denen behauptet wird, dass sie zum Tode verurteilt gewesen waeren, durch die Vornahme der Experimente gerettet wurden, ist kein Verteidigungsgrund. Eine Verhandlung gegen diese Frauen fand nicht statt. Sie willigten nicht in die Versuche ein. Sie protestierten maendlich, physisch und schriftlich. Es ist kein Anhaltspunkt dafuer vorhanden, dass der Generalgouverneur des besetzten Polens, wie es das deutsche Gesetz verlangte, je etwas bezueglich ihrer Gnadengesuche unternahm. Ausserdem wurden 6 der Versuchspersonen, nachdem sie die Versuche ueberstanden hatten, hingerichtet.

Die Knochen-, Muskel- und Nervenregenerationsversuche und die Knochenverpflanzungsversuche wurden an derselben Stelle, waehrend desselben Zeitabschnitts und an derselben Gruppe von Opfern wie die Sulfonamid-Versuche vorgenommen. Ohne die letzteren waerden die ersteren nie stattgefunden haben. Der chirurgische Plan fuer diese Versuche wurde von Fischer in Zusammenarbeit mit Stumpfegger auf Befehl Gebhardts aufgestellt. Fischer, der Gebhardt direkt unterstellt war, nahm an den Versuchen einen taetigen Anteil. Stumpfegger war waehrend dieser Versuche in Hohenlychen stationiert und berichtete Gebhardt ueber sie. Gebhardt fuehrte persoenlich am Patienten Ladisch einen Knochenverpflanzungsversuch aus. Der Konzentrationslagerinsasse, von dem der Knochen entfernt wurde, wurde spaeter getoetet.

Gebhardt war mit den Einzelheiten der Versuche vertraut, an denen Rascher in Dachau teilnahm, einschliesslich

der Hohen-, Kaelte- und Blutgerinnungsversuche. Er besprach diese Versuche mit Hascher persoenlich und bot materielle Unterstuetzung an. Polygal, ein Blutgerinnungsmittel, das durch Erschiessen von Insassen ausprobiert wurde, wurde von Gebhardt in Hohenlychen studiert.

Gebhardt hatte Kenntnis von den meerderischen Sepsisversuchen in Dachau und gab Fischer Instruktionen darueber. Sie waren eine Ergaenzung der Sulfonamid-Versuche in Ravensbruck.

Er nahm an Konferenzen betreffts Sterilisierungsversuchen an juedischen weiblichen Insassen von Auschwitz teil.

Nach dem 15. Mai 1944 mussten alle Versuche an Konzentrationslagerinsassen von Gebhardt gebilligt werden. Er sanktionierte die Meerwasserversuche in Dachau und riet die Verwendung "asozialer Zigeuner" dringend an. Er genehmigte Gasversuche an Insassen. Seine Genehmigung war erforderlich fuer Giftversuche, die nach dem 15. Mai ausgefuehrt wurden, sowohl als auch fuer die vorgeschlagenen Versuche mit epidemischer Gelbsucht.

Die Anklagebehoerde unterstellt, dass das Beweismaterial beweist, dass Gebhardt Haupttaeter, Teilnehmer, Anstifter und Vorschubleistender gewesen ist, seine Zustimmung gegeben und mit Plaenen und Unternehmen, bei denen es sich um medizinische Versuche an Versuchspersonen ohne deren Zustimmung handelte, in Verbindung gestanden hat, in deren Verlauf Mord, Brutalitaeten, Grausamkeiten, Folterung, Greuelthaten und andere unmenschliche Taten begangen wurden, und dass seine Schuld unter den Anklagepunkten I, II, III und IV der Anklageschrift festgestellt worden ist.

ENDE

Ich, Fred Lax, X 046207, bestaetige hiermit, dass ich
durchaus vertraut mit der englischen und deutschen
Sprache bin, und dass das Vorstehende eine wahrheits-
gemaeße und richtige Uebersetzung dieses Dokuments
darstellt.

Nuernberg, 10. Juni 1947

FRED LAX
X 046207

M I L I T A R Y T R I B U N A L N O . I

FALL NO. 1

ABSCHLIESSENDE DARLEGUNG FUER
DIE VEREINIGTEN STAATEN VON AMERIKA
GEGEN
KARL GENZKEN

Nuernberg,
16. Juni 1947

James M. McHaney
Alexander G. Hardy
Arnost Horlick-Hochwald
Esther Jane Johnson

Fuer:

Telford Taylor
Brigadier General, U.S.A.,
Chief of Counsel for War Crimes



EINLEITUNG

In Anklagepunkt eins der Anklageschrift wird behauptet, dass der Angeklagte GENZKEN, in Verfolgung eines gemeinsamen Planes, zusammen mit anderen, sich verschworen hat und uebereingekommen ist, medizinische Experimente an unfreiwilligen Versuchspersonen vorzunehmen; in Anklagepunkt zwei und drei (Kriegsverbrechen, respektive Verbrechen gegen die Menschlichkeit) wird behauptet, dass er ein Taeter und Mithelfer war, dass er angeordnet, unterstuetzt und teilgenommen hat und im Zusammenhang stand mit Plaenen und Unternehmungen die sich mit medizinischen Experimenten an unfreiwilligen Versuchspersonen befassten; schliesslich wird er in Anklagepunkt vier bezichtigt, nach dem 1. September 1939, ein Mitglied der SS gewesen zu sein, welche durch den Internationalen Militaergerichtshof zur verbrecherischen Organisation erklart wurde.

Der Angeklagte GENZKEN wird insbesondere der Teilnahme an den Fleckfieber-Experimenten beschuldigt, wie sie im Abschnitt 6 (J) der Anklageschrift niedergelegt sind, sowie der Teilnahme an den Sulfanilamide Experimenten, wie sie der Abschnitt 6 (E) feststellt. Zum Zwecke der Vereinfachung der zur Verhandlung stehenden Probleme hat die Anklagebehoerde vordem den Beschuldigungspunkt seiner Teilnahme an den Giftgas- und Brandbomben-Experimenten, wie sie insbesondere in Abschnitt 6 (K) und 6 (L) niedergelegt sind, fallen gelassen. Zusatzlich hierzu zieht die Anklagebehoerde hiemit die Anklage seiner Teilnahme an den Seewasser-Experimenten, wie sie der Abschnitt 6 (G) der Anklageschrift feststellt, zurueck. Demzufolge beruht die Anklage von GENZKEN wegen seiner Teilnahme an verbrecherischen medizinischen Experimenten auf seiner Verbindung mit den Fleckfieber-Experimenten in Buchenwald, die zusammen mit anderen Impfstoff-Experimenten und der Blutentnahme zum Zwecke der Gewinnang von Fleckfieber-Heilserum und Blutplasma, sowie den Sulfanilamide Experimenten und den Einfrierungs- und anderen Versuchen, durchgefuehrt von Dr. HASCHER und den Unfruchtbarmachungsversuchen von Dr. CLAUBER, ausgefuehrt wurden.

I. Verantwortliche Stellen.

Als Chef des Sanitaetswesens der Waffen SS war der Angeklagte GENZKEN, zusammen mit Reichsarzt SS GRWITZ der ranghoechste Sanitaets-offizier in der SS.

GENZKEN diente als Sanitaetsoffizier im ersten Weltkriege. Im August des Jahres 1912 trat er in den Sanitaetsdienst der Deutschen Kriegsmarine ein und diente als Offizier bis zum November des Jahres 1919. Er hatte eine aertzliche Privatpraxis bis zum Oktober 1934, nach welchem Zeitpunkt er wieder als Reserveoffizier in die Marine eintrat. Im Jahre 1926 schloss er sich der nationalsozialistischen Partei an.

Am 1. Maerz 1936 trat er zur SS mit dem Rang eines Sturmbann-fuehrers (Major) ueber und wurde dem Sanitaetsabt der SS-Verfuegungs-truppe, welche in der Folgezeit zur Waffen-SS wurde, zugeteilt. Er wurde gleichzeitig zum Chefarzt des SS-Krankenhauses in Berlin ernannt und leitete die daran angeschlossene Sanitaetsschule.

Im Fruehjahr des Jahres 1937 wurde das Sanitaetsamt der SS ver-groessert und in 2 Abteilungen aufgegliedert. GENZKEN wurde zum Leiter jener Abteilung ernannt, die sich mit der Beschaffung von aertzlichen Ausruestungsmaterial und der Ueberwachung des Sanitaetspersonals in den Konzentrationslagern zu befassen hatte. In dieser Eigenschaft war er aertzlicher Berater fuer HICKE, welcher oberster Befehlshaber von allen Konzentrationslagern war. Die Konzentrationslager Sachsen-hausen, Dachau, Buchenwald, Mauthausen, Flossenbuerg und Neuengamme, die zu dieser Zeit die bestehenden Hauptlager waren, fielen unter seine aertzliche Zustaendigkeit. Es oblag ihm, diese Lager zu inspizieren. (GENZKEN, R. 3843). Er war in dieser Eigenschaft bis zum September des Jahres 1939 taetig.

Nach der Aufstellung der Sanitaetsabteilung 3 der 3. Panzer-grenadier-Division durch ihn,

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wurde GENZKEN zum Chef des Sanitaetsamtes der Waffen-SS, welches das Amt VII im SS Fuehrungshauptamt darstellte, mit dem Rang eines Oberfuehrer ernannt. Das SS-Fuehrungshauptamt stand unter der Leitung von Obergruppenfuehrer Hans JUETTNER und war eines der 12 Hauptaemter der obersten SS-Fuehrung. (NO-416, Pros.Ex.22, R.121). Waehrend JUETTNER GENZKEN's militaerischer Vorgesetzter war, war sein Vorgesetzter in technischer und aerztlicher Hinsicht der Reichsarzt der SS GRAMITZ, den er bei vielen Gelegenheiten offiziell vertrat. (NO-439, Pros.Ex. 24, R.122). Diese Stellung hatte er bis zum Kriege-ende inne, im Jahre 1942 jedoch wurde seine Stellung bekannt unter dem Namen des Chefs des Sanitaetswesens der Waffen-SS, Abteilung D des SS-Fuehrungshauptamtes. Er wurde zum Brigadefuehrer befördert und wurde schliesslich am 30. Januar des Jahres 1943 Gruppenfuehrer und Generalleutnant der Waffen-SS.

In seiner Eigenschaft als Chef des Sanitaetswesens der Waffen-SS, war GENZKEN verantwortlich fuer die Ausbildung, Aufstellung und Einsatz saemtlicher Sanitaetseinheiten der Waffen-SS. Von Augenblick an, wo solche Einheiten zur Front abgestellt wurden, ging ihre taktische Fuehrung an den Angeklagten HANDBLOER als Heeres-Sanitaetsinspekteur ueber.

Beweis fuer die vorstehend angefuhrten Tatsachen wird geliefert durch die eidesstattliche Erklaerung GENZKEN's (No-439, supra) sowie durch seine Aussagen (R.3774-78).

Vier Aemter waren GENZKEN innerhalb des SS-Fuehrungshauptamtes unterstellt,-- das Amt XIII, Truppensanitaetswesen, das Amt XIV, Zahnuerztliche Betreuung, das Amt XV, Chemische und Pharmazeutische Betreuung unter der Leitung von BLUMENREUTER, und das Amt XVI, Hygiene unter der Leitung des Angeklagten KRUGOWSKY. (NO-416, Pros. Ex.22, R.121; Genzken, R.3845-6). Krugowsky wurde GENZKEN's Amt im Jahre 1940 als Hygieniker zugeteilt und war zur gleichen Zeit Chef des Institutes der Waffen-SS fuer Hygiene, welches wiederum GENZKEN unterstand. (Genzken, R.3778, 3846; NO-416, supra). Dieses Unterstellungsverhaeltnis dauerte fort bis zum 31. August 1943.

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Am 1. September 1943 wurde das Sanitätswesen der Waffen-SS umgegliedert. Dieser Vorgang brachte, unter anderem die Ueberstellung von BLUMENFELDER, KRUGOWSKY und des Instituts der Waffen-SS fuer Hygiene zu dem Amt des Reichsarztes der SS und Polizei Prof. Dr. Ernst GRAMITZ. Darnach konnte man eher von einer direkten Unterstellung an GRAMITZ als an GENZKEN sprechen (NO-417, Pros. Ex. 23, R. 121; NO-416, supra; NO-723, Pros. Ex. 29, R. 131).

II. Persoenliche Beteiligung an verbrecherischen Experimenten.

A. Fleckfieber- und andere Impfstoff-Experimente (Anklageschrift Abschnitt 6 (J))

(1) Fleckfieber-Experimente in Buchenwald.

Die Fleckfieber-Experimente in Buchenwald wurden durch Offiziere ausgefuehrt, die unter Genzkens Befehl standen. Der verbrecherische Charakter dieser Experimente wird in der Darstellung der Anklagebehoerde ueber KRUGOWSKY aufgezeigt. Die Experimente wurden mit seiner Kenntnis und Billigung durchgefuehrt. Er ist daher verantwortlich fuer die mannigfachen Morde, die das Ergebnis dieser Experimente waren.

Anwendung von Yamashita, 56 S.Ct. 340, 346 (1946)

Die unmittelbare Leitung der Fleckfieber-Experimente in Buchenwald lag in Haenden von Dr. DING-SCHWARTZ, Sanitätsoffizier der Waffen-SS, der seinerseits den Befehlen und der Ueberwachung des Angeklagten KRUGOWSKY unterstellt war. Vor dem Jahre 1939 war DING Lagerarzt in Buchenwald (Kogon, R. 1154) und ist somit ein Untergebener von GENZKEN gewesen. Waehrend des Frankreichfeldzuges, fungierte DING als GENZKEN's Adjutant und sie wurden persoenliche Freunde (Genzken R. 3811). Im Januar des Jahres 1942 begann DING die Fleckfieber-Experimente in Buchenwald. Er war dem Institut der Waffen-SS fuer Hygiene angegliedert und die Gebaueblocks fuer experimentelle Versuche und Impfstoffherstellung im Lager Buchenwald wurden bekannt als Unterabteilung fuer Fleckfieber und Virus des Instituts fuer Hygiene. Dies wird deutlich durch die Skizze veranschaulicht, die der Angeklagte KRUGOWSKY aufgezeichnet hat. (NO-416, Pros. Ex. 23, R. 121).

GENZKEN gibt zu, dass MRUGOWSKY und das Institut der Waffen-SS fuer Hygiene ihm vor dem 31. August des Jahres 1943 unterstanden und dass sie seinen Befehlen unterworfen waren (R.3847). Er gibt fernerhin zu, dass DING sein Untergebener war bis zu jenem Zeitpunkt, in dem er die verbrecherischen Experimente in Buchenwald begann. Danach, so behauptet er, war er den nicht mehr am Leben befindlichen GRAWITZ unterstellt. (R.3847). Indem er fuer einen Augenblick die Wahrheit dieser nur fuer ihn selbst vorteilhaften Aussage annahm, fuhr GENZKEN mit seinen Feststellungen wie folgt fort:

"Von diesem Zeitpunkt an hatte meine Dienststelle sich nur noch mit der Deckung seiner Auslagen zu befassen, denn er war an eine andere Dienststelle angegliedert worden und da die neue Stelle, der er angegliedert worden war, noch nicht in Haushaltsplan vorgesehen war, so hatten wir uns um seine Ausgaben zu kuennern und das traf in diesen Falle zu." (R.3847) (Unterstreichung vorgelegt). So lieferte - wie der Angeklagte selbst zugibt - sein Amt die fuer die Fleckfieber-Experimente notwendigen Geldmittel. Unter der neuerlichen Annahme dass DING GRAWITZ angegliedert war, konnte dies nicht ohne die Kenntnis und Billigung von GENZKEN geschehen, der ja sein Kommandeur war. Er musste seine Zustimmung zu DING's Benützung fuer die Buchenwald-Experimente geben.

Das Beweismaterial jedoch zeigt, dass DING und MRUGOWSKY unausgesetzt bis zum 31. August 1943 GENZKEN unterstellt waren. Die Frage ist daher nicht ob GRAWITZ der Vorgesetzte von DING oder MRUGOWSKY war, sonder vielmehr ob GENZKEN ein Glied ⁱⁿ der Befehlskette zwischen DING und GRAWITZ war. Wie bereits dargelegt wurde, hat GENZKEN selbst festgestellt, dass GRAWITZ in aerztlicher Hinsicht sein Vorgesetzter war

Die wesentliche Beteiligung GRAWITZ's an diesen Experimenten entlastet GENZKEN in keiner Weise. Das Beweismaterial zeigt, dass GENZKEN ein Glied in der Befehlskette war und dass sowohl DING als auch MRUGOWSKY seine unmittelbaren Untergebenen waren. Der Angeklagte MRUGOWSKY aeussert sich in den Abschnitten 4 und 5 seiner eidesstattlichen Erklaerung wie folgt:

"GENZKEN war mein direkter Vorgesetzter von.....

GENZKEN war mein direkter Vorgesetzter von Jahre 1940 bis zum 1. September 1943. Damals wurde eine Neugestaltung innerhalb des Sanitätsdienstes der SS durchgeführt und ich wurde unmittelbar Dr. GRAWITZ, dem damaligen Reichsarzt der SS und Polizei, unterstellt. Anfangs 1942 befahl Dr. GENZKEN die Gründung der Abteilung fuer Fleckfieber und Virusforschung innerhalb des hygienischen Institutes der Waffen-SS im Konzentrationslager Buchenwald und ernannte Dr. DING zum Leiter dieser Abteilung. Da ich zu dieser Zeit der Leiter des Amtes XVI "Hygiene" innerhalb des SS-Führungshauptamtes war, war ich Dr. DING's direkter Vorgesetzter. Der Name seiner Abteilung wurde gewählt um die Gleichheit der Ziele dieses Institutes fuer die Waffen-SS mit denen des Institutes fuer Fleckfieber- und Virusforschung des OKH's in Krekau unter Major Dr. EYER klarzumachen.

"Dr. GENZKEN wusste natuerlich, dass das Institut gegruendet war um der Waffen-SS einen wirksamen Impfstoff gegen Fleckfieber zu geben. In der Abteilung fuer Fleckfieber- und Virusforschung in Buchenwald wurden von Dr. DING medizinische Versuche an Haeftlingen des Konzentrationslagers Buchenwald durchgefuehrt um die Wirksamkeit der verschiedenen Fleckfieber Impfstoffe festzustellen. (No-423, Anklage Beweisstueck 282 B.1085).

Abschnitt 4 und 5 der eidesstattlichen Erklaerung des Angeklagten HOVEN, der mit Dr. DING zusammen an diesen Versuchen arbeitete, erklaeern folgendes:

"Gegen Ende des Jahres 1941 wurde eine Versuchsstation im Konzentrationslager Buchenwald errichtet um die Wirksamkeit verschiedener Impfstoffe gegen Fleckfieber festzustellen. Diese Abteilung wurde als die "Fleckfieber Versuchsstations-Abteilung fuer Fleckfieber und Virusforschung" bezeichnet und war unter der unmittelbaren Aufsicht von Dr. DING, alias SCHULER. Diese Versuchsstation wurde im Block 46 des Lagers errichtet. Das Institute der Waffen SS fuer Hygiene in Berlin unter dem Befehl von Dr. Joachim MRUGOWSKY erhielt saemtliche Berichte ueber diese Taetigkeit und Dr. DING erhielt seine Befehle von Dr. MRUGOWSKY. Am Anfang, das heisst zwischen 1941 und Sommer 1943, traf sich Dr. DING oft mit Dr. Karl GENZKEN wegen seiner Arbeit in Buchenwald in Verbindung mit den Fleckfieberversuchen. Dr. DING erzaehlte mir, dass Dr. GENZKEN sich besonders fuer diese Sachen interessiert und dass er ihm zu verschiedenen Zeiten Berichte sandte. Dr. DING sagte auch, dass Dr. Karl GENZKEN einer seiner Vorgesetzten war. Meine Verbindung mit Dr. DING zeigte mir die folgende Befehlskette in der Beaufsichtigung dieser "Fleckfieberversuchsstation" : Reichsarzt SS GRAWITZ, GENZKEN, MRUGOWSKY und DING.

"Ich kann mich erinnern, dass Dr. GENZKEN im Januar 1943 Dr. DING den Befehl erteilte, die Versuchsstation zu vergroessern. Zu dieser Zeit wurde Block 50 geraeumt und zu einer Abteilung fuer die Herstellung verschiedener

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Impfstoffe, die fuer die Versuche in Block 46 verwendet wurden, gemacht. Von dieser Zeit an wurde die Versuchsstation "Abteilung fuer Fleckfieber und Virusforschung des Hygienischen Institutes der Waffen-SS" genannt. In Sommer 1943 uebergab dann Dr. GENZKEN alle seine Aufgaben Dr. KRUGOWSKY und von diesem Zeitpunkt an nahm GENZKEN nicht mehr aktiv an der Sache teil. Ich erinnere mich, Dr. KRUGOWSKY im Hause Dr. DING's waehrend einer seiner Besuche in Buchenwald getroffen zu haben. (NO-129, Anklage Beweisstueck 281, R 1080).

Der Zeuge Kogon sagte aus, dass DING mit GENZKEN offiziell ueber die Fleckfieberversuche in Buchenwald korrespondierte, (R.1157). Sie hatten auch privaten Briefwechsel. Kogon sagte weiterhin aus, dass DING an Frankreichfeldzug als Adjutant GENZKEN's der ihn beschuetzte und "der eine besondere Schwaeche fuer DING hatte" teilnahm; dass er aus dem Briefwechsel zwischen GENZKEN und DING und von Aussagen DING's wusste, dass GENZKEN als Chef des Sanitaetswesens der Waffen-SS der Vorgesetzte von KRUGOWSKY und DING war; dass KRUGOWSKY's Unabhaengigkeit im Sommer 1943 groesser wurde und dass DING diesem Wechsel entgegentrat und GENZKEN als Chef behalten wollte, dass im Spaetsommer 1943 KRUGOWSKY endgueltig der einzige Chef DING's wurde. (Kogon R 1200-2). Der letztere Teil der Aussage bezieht sich offensichtlich auf die Neugestaltung des Sanitaetsdienstes der SS im August 1943, als KRUGOWSKY GRAWITZ an Stelle von GENZKEN unterstellt wurde. Kogon sagte aus, dass GENZKEN als DING's Chef von den Fleckfieberversuchen in Block 46 vor August 1943 unterrichtet war. DING setzte seinen Briefwechsel mit GENZKEN fort, und lud ihn wiederholt ein, "seinen Laden" in Buchenwald zu besuchen. (Kogon, R.1202) Dietzsch, der Kapo des Blockes 46, sagt in seiner eidesstattlichen Erklaerung, dass DING ihm sagte, dass GENZKEN die Versuchsstation besucht habe. (NO-1314, Anklagebeweisstueck 433, R 2040).

Dass DING GENZKEN unterstellt war, ist abschliessend aus dem Eintrag in DING's Tagebuch vom 9 Januar 1943 festgestellt. Der Eintrag sagt folgendes:

"Auf Befehl des Generalstabsarztes der Waffen-SS, SS-Gruppenführer und Generalleutnant der Waffen-SS, Dr.GENZKEN, wird die bisher bestehende Fleckfieberforschungsstation im Konzentrationslager Buchenwald zur "Abteilung Fleckfieber und Virusforschung" umgewandelt. Der Leiter dieser Abteilung wird SS Sturmbannführer Dr.DING. Während seiner Abwesenheit wird der Standortsanitäts-offizier Dr.HOVEN die Aufsicht ueber die Herstellung von Impfstoffen uebernehmen. Der Leiter des Wirtschafts-Verwaltungshauptamtes, SS-Obergruppenführer und General der Waffen-SS POHL, ordnete die Verbesserung des Blocks von Steinbauten an.

"SS-Sturmbannführer Dr.DING wird gleichzeitig zum Obersten Leiter der Abteilung fuer besondere Aufgaben in Amt XVI (Hygiene) der Antegruppe D (Sanitäts Angelegenheiten der Waffen-SS) des SS Hauptfuhrungsamtes ernannt".

Somit gab GENZKEN einen Befehl an DING. Er wollte diesem Gerichtshof glauben machen, dass dies mehr eine "Zustimmung" als ein Befehl war. (Genzken R 3865) aber wie schwerwiegend diese Unterscheidung auch sein mag, der Empfänger dieser Nachricht betrachtete sie als Befehl eines Vorgesetzten. GENZKEN sagte auch, dass sich diese "Zustimmung" nur auf die Herstellungsstation fuer Impfstoffe beschränkte (R 3864). Dies ist offensichtlich nicht der Fall, da der Befehl von der "bestehenden Fleckfieberversuchsstation" in Buchenwald spricht, und da die einzige Station dieser Art der Fleckfieberversuchsblock war. Die Impfstoffherstellungsstation war vorlaeufig nur geplant und begann nicht vor dem 15.August 1943 zu arbeiten. (Genzken R.3865). Dies beweist dass der Name "Abteilung fuer Fleckfieber und Virusforschung" sich sowohl auf die Versuchs- sowie auf die vorgeschlagenen Herstellungsstationen bezog. Weiterhin sagte Kogon aus, dass sich der Name sowohl auf Block 46 als auch auf Block 50 bezog. (R.1155) GENZKEN sagte in Zeugenstand, dass sich DING moeglicherweise im Datum geirrt habe. (R.3864).

Dass DING GENZKEN unterstand, ist weiterhin durch die Tatsache bewiesen, dass DING in demselben Befehl zum Leiter der Abteilung fuer besondere Aufgaben in Amt XVI (Hygiene) der Antegruppe D des ^{SS} Hauptfuhrungsamtes ernannt wurde.

GENZKEN war immer der Leiter der Antsgruppe D, die das Sanitaetswesen der Waffen-SS war.

Die Beweisfuehrung zeigt dass GENZKEN ueber die Fleckfieberversuche in Buchenwald unterrichtet war. GENZKEN gab zu, dass er wusste, dass DING Impfstoffe in Buchenwald zu erproben hatte und dies mindestens seit dem Tage an dem er sich selbst infizierte. (R.3805) Das war am 17 Maerz 1942, nur 2 Monate nach dem die Versuche begannen. Er sagte aus, dass er wusste, dass Haeftlinge fuer die Versuche verwendet wurden, aber er wusste nicht in welcher Art und Weise. (R.3810). Es ist offensichtlich, dass er wusste, dass Versuche mit kuenstlicher Infektion durchgefuehrt wurden, dies allein von der Tatsache dass DING sich selbst infizierte. Es ist hoechst zufaellig dass ein Arzt 60 Tage nach dem er Impfstoffversuche begonnen hatte, an Fleckfieber erkranken sollte, wenn nicht mit einem virulenten Fleckfiebererreger gearbeitet wird. Solch ein Erreger wuerde nicht benoetigt, ausser wenn Versuche mit kuenstlicher Infektion durchgefuehrt werden. Weiterhin wurde von der Verteidigung keinerlei Beweis erbracht, dass zu dieser oder irgendeiner Zeit eine Fleckfieberepidemie in Buchenwald herrschte.

"GENZKEN's Behauptung, dass er dachte, dass Haeftlinge ganz einfach auf die verschwindend kleine Moeglichkeit, Fleckfieber auf natuerliche Art zu bekommen, geimpft wurden, erscheint sogar Laien absurd, die von Fleckfieber nicht mehr wissen als das, was sie in diesem Prozess gehoert haben. Diese Behauptung ist durch die Tatsache, dass GENZKEN am 5. Mai 1942 von KRUGOWSKY einen Bericht ueber die erste Versuchsserie in Buchenwald erhalten hatte (Krugowsky Dokument 10, Krugowsky Beweisstueck 20 R 5087) vollstaendig widerlegt. Obwohl dieser Bericht weder kuenstliche Infektion, DING oder Buchenwald erwahnt, wusste GENZKEN bestimmt dass dies das Ergebnis von DING's Arbeit war. Das Bild, das GENZKEN uns gerne geben moechte, ist folgendes: DING beginnt seine Impfstoffpruefungen im Januar 1942, impft gesunde Haeftlinge mit 4 verschiedenen Impfstoffen, behaelt eine nicht geimpfte Gruppe zur Kontrolle, infiziert die geimpften Gruppen waehrend 4 bis 6 Wochen nicht mit Fleckfieber

um sicher zu sein, dass sie immun sind, DING und alle Versuchspersonen erkrankten zufaellig an Fleckfieber, 30% Todesfaelle in der Kontrollgruppe 2 Todesfaelle in der geimpften Gruppe, und ein sauber geschriebener Bericht geht am 5. Mai an GENZKEN. Bei einer solchen zufaelligen und normalen Fleckfieber epidemie war es natuerlich nicht notwendig auf kuenstliche Infektion zurueckzugreifen. Wenn GENZKEN nicht wusste, dass MRUGOWSKY's Bericht DING's Versuche mit kuenstlicher Infektion behandelte, denn war er der einzige Empfänger des Berichts der dies nicht wusste. Conti, Grawitz und Gildemeister waren bestimmt sehr gut unterrichtet; Eyer, ein Fleckfieber-Sachverstaendiger von Handloser besuchte die Versuchstation; und Demnitz der Geschaeftefuhrer der Behring Werke und Hersteller eines der geprueften Impfstoffe, nahm an einer der Konferenzen in denen die Versuche geplant wurden, in der Konferenz am 29. Dezember 1941, teil. (NO-1315, Anklagebeweisstueck 454, R 3086.)

GENZKEN's Behauptung, dass er niemals Berichte ueber DING's Versuche erhalten hat (R 3808) wird weiterhin durch Kogon's oben erwachte Aussage widerlegt, und auch durch MRUGOWSKY's Aussage. MRUGOWSKY sagte aus, dass es seine Pflicht als hygienischer Sachverstaendiger bei GENZKEN war, diesen ueber alle wichtigen Sachen auf diesem Gebiet zu unterrichten. GENZKEN gab zu, dass MRUGOWSKY ihm ungefaehr einmal woechentlich Bericht erstattete (R.3856). Im Fruehjahr 1943 berichtete er GENZKEN ueber die Fleckfieberversuche in Buchenwald und die Moeglichkeiten, dort Impfstoffe herzustellen. Er tat dies aus 3 Gruenden: (1) DING plante waehrend des Treffens der beratenden Aerzte der Wehrmacht einen Vortrag zu halten und GENZKEN als Chef des Sanitaetswesens der Waffen-SS musste davon wissen. (2) MRUGOWSKY wollte GENZKEN ueber die Wirksamkeit der in Buchenwald geprueften Impfstoffe unterrichten und (3) wollte er ihm sagen wann und in welchen Mengen er Impfstoffe, der in Buchenwald hergestellt wird, erwarten koennte. MRUGOWSKY erzaehte GENZKEN, dass die in Buchenwald geprueften Impfstoffe verschiedene Wirkungen in Bezug auf die Temperatur und die Anzahl von Todesfaellen haetten. Er zeigte ihm Diagramme die von DING vorbereitet worden waren und die die Temperatur zeigten und.....

Sterblichkeitszahlen. Der Titel der Tabelle gab den Tag der Infektion an. (Mrugowsky, R. 5367-8). Im 6. Absatz seiner eidesstattlichen Erklärung war Mrugowsky sogar noch nachdrucksvoller. Er erklärte:

"Im April 1943 berichtete ich Dr. Genzken mündlich ueber die Ergebnisse der bis dahin vorgenommenen Versuche. In diesem Berichte gab ich die noetigen Erklärungen und zeigte Dr. Genzken einige mir vom Amte des Dr. Ding zugekommenen Tabellen, aus welchen die Fieber- und Puls-Kurven, die Impfdaten und die Daten der kuensentlichen Infektion, die Sterblichkeitsziffern, die entstandenen Komplikationen u.s.w. ersichtlich waren. Eine der in den Tabellen enthaltenen Versuchsreihen wurde an Leuten vorgenommen, die nur infiziert aber nicht geimpft wurden, damit man die Wirksamkeit der in anderen Faellen angewandten Impfstoffe feststellen kann.

"Ich berichtete Dr. Genzken ausfuhrlich und es ist daher voellig ausgeschlossen, dass Dr. Genzken als Arzt von dem Umstande, dass menschliche Wesen fuer diese Versuche und Forschung benutzt wurden, nichts gewusst haette. (No-423, Pros.Ex. 282, R.1085)."

Es ist daher einwandfrei erwiesen, dass Genzken von diesen Versuchen eingehend unterrichtet war, sogar bis auf dem Tag, an welchem die Haeflinge des Konzentrationslagers infiziert wurden. Auch wenn man das Unmoegliche annimmt, naemlich, dass er nicht verstand, was ihm berichtet wurde, kann dies nicht als Verteidigung angesehen werden. Es war seine Pflicht und Schuldigkeit, sich selbst zu informieren und die Taetigkeit seiner Untergebenen zu ueberwachen. Die Anwendung von Yamashita, supra.

Genzken gab zu, dass er nach Jaenner 1942 mit Ding in persoenlicher Fuehlung war, dass er sich aber nicht erinnern koenne, ob Ding ihm ueber seine Versuche berichtet hat. (R.3814). Er gab zu, dass er mit Ding offiziell und privat korrespondierte. Man kann sich schwer vorstellen, was die offizielle Korrespondenz, ausser den Versuchen in Buchenwald, enthalten konnte.

Der Kernpunkt der Verteidigung Genzken's ist der Umstand, dass Block 46, die Versuchstation, nicht dem Hygienischen Institut der Waffen-SS und dadurch ihm, sondern Grawitz unterstellt war. Es wird behauptet, dass selbst wenn man die Kraft der Beweisfuehrung der Anklagebehoerde voellig unbeachtet laesst und die Zeugenaussage Genzken's als wahr annimmt, er doch der Verbrechen, die im Verlaufe der Fleckfieberversuche in Buchenwald veruebt wurden, schuldig befunden werden muss.

(Seite 12 des Originals)

Er gibt zu, dass Ding ihm vor August 1943, was die Impfstoffherstellung anbelangt, untergeordnet war. (Gonzken Doc. 11, Gonzken Ex. 5, R. 3819). Gerade gleichzeitig wusste er, dass Ding im Versuchsblock tätig war. Hoven wurde von Gonzken zu Ding's Vertreter ernannt und half Ding gleichzeitig im Versuchsblock. Mrugowsky war ständig mit der Herausgabe von Weisungen fuer beide Blocks beschäftigt und war bis zum 31. August 1943 der Untergeordnete Gonzken's.

Uebrigens kann die Tätigkeit der Blocks Nr. 46 und 50 nicht getrennt behandelt und diese wie zwei hermetisch von einander abgeschlossene Abteilungen angesehen werden. Die Versuche in Block Nr. 46 waren kein Selbstzweck. Sie wurden zu dem Zwecke vorgenommen, um festzustellen, welche Impfstoffe wirksam waren, sodass die Erzeugung auf diese Impfstoffe konzentriert werden konnte. Die Ergebnisse der verbrecherischen Versuche in Block No. 46 fuehrten direkt zur Errichtung der Impfstoff-Erzeugungsanlage in Buchenwald, die Ergebnisse wurden dort direkt bei der Erzeugung von Impfstoffen ausgewertet; und diese Impfstoffe wurden spaeter in Block No. 46 an Konzentrationslagerhäftlingen ausprobiert. Alle diese Tatsachen sind durch das Tagebuch Ding's erwiesen. So besagt die Eintragung am 19. August 1942, dass der nach dem Verfahren Durand-Giroud vom Pasteurinstitut aus Kaninchenlungen erzeugte Impfstoff durch kuenstliche Infektionsversuche ausprobiert und als wirksam befunden wurde. Vier Versuchspersonen wurden bei diesen Versuchen getoetet. Es handelt sich hier um den gleichen Impfstoff, fuer dessen Erzeugung Gonzken im Januar 1943 die Anlage in Buchenwald errichtete. Die Eintragung vom 11. Juli 1944 fuehrt aus, dass der "Weimar"-Impfstoff aus Kaninchenlungen nach dem Verfahren Durand-Giroud erzeugt wurde. Am 10. September 1942 und dann am 28. Februar und 27. April 1943 wurde Ding beauftragt, im Pasteurinstitut in Paris Laboratoriumseinrichtungen fuer Abteilung fuer

(Seite 13 des Originals)

Fleckfieber und Virus-Forschung sowie fuer das Hygienische Institut zu beschaffen. Erstmals wurde der "Weimar-" Impfstoff in einer Reihe von Versuchen am 22. Januar 1944 ausprobiert, die mit dem Tode von 5 Personen endeten.

Soll der Chefarzt der Waffen-SS, der wusste, dass Ding Fleckfieberversuche an Konzentrationslagerhäftlingen vorgenommen hatte, der Ding befohlen hatte, in Buchenwald eine Anlage zur Erzeugung eines der in diesen Versuchen als wirksam befundenen Impfstoffe zu errichten, der sich der Dienste der Mitverschwörer Mrugowsky und Hoven bediente, soll sich ein Mensch unschuldig gefunden werden? Die Anklagebehörde behauptet, dass die Verantwortung des SS-Gruppenführers Genzken in Bezug auf die verbrecherischen Fleckfieber-Versuche in Buchenwald grösser ist als die seines Untergebenen, des SS-Sturmabführers Ding.

(2) Andere Versuche in Buchenwald.

Die Fleckfieber-Versuche waren nicht der einzige Berührungspunkt des Angeklagten Genzken mit der Versuchsstation in Buchenwald. Am 5. Januar 1943 sandten die Behring Werke in Marburg Mrugowsky ein Schreiben des Inhaltes, dass sie von Schreiber unterrichtet worden wären, dass jede Partie von Gelbfieberimpfstoff vor Lieferung an die Wehrmacht an menschlichen Wesen ausprobiert werden müsse. Im Schreiben hiess es ausdruecklich: "Oberstabsarzt Dr. Schreiber hat uns gesagt, dass in Zukunft Versuche an menschlichen Wesen von Ihrer Dienststelle vorgenommen werden. Wir werden uns daher erlauben, Ihnen in bestimmten Zeitabständen Muster von verschiedenen Partien zu senden. Wir bitten um Mitteilung, ob wir auch die zukuenftigen Partien zu Dr. Hoven in Buchenwald senden sollen". (No. 1305, Pros.Ex. 469, R 5426). Das Amt, welches in Zukunft die in dem Schreiben erwähnten Versuche an menschlichen Wesen vornehmen sollte, war das unter der Leitung Mrugowsky's stehende Hygienische Institut der Waffen-SS. Zu jener Zeit war Mrugowsky ein direkter Untergebener Genzkens. Die Eintragung in Ding's Tagebuch von

(Seite 14 des Originals)

19. Januar 1943 betrifft die Pruefung dieser Gelbfieberimpfstoffe. Bei der Pruefung der Impfstoffe wurde ein lebender Virus verwendet und die Eintragung fuehrt an, dass jede Impfstoffpartie an 5 Personen ausprobiert wurde. Eine sehr grosse Anzahl von Haeflingen wurde zwischen dem 13. Januar und 17. Mai 1943 geimpft. Die Ergebnisse der Versuche mit den Impfstoffen gegen Gelbfieber wurden dem Ante XVI (Hygiene) in SS-Fuehrungs-Hauptquartier mitgeteilt, das eines der bis zum Kriegsende Genzken unterstellten Aemter war.

Nach den Aufzeichnungen in Ding's Tagebuch wurde in der Zeit vom 24. Maerz bis 20. April 1943 ein Impfversuch in grossen Masse an 45 Haeflingen des Konzentrationslagers Buchenwald vorgenommen. Innerhalb von 4 Wochen wurde jede Person an 8 Tagen gegen Blattern, Typhus Fleckfieber, Paratyphus A und B, Cholera und Diphtherie geimpft. In Zusammenhang mit den Paratyphus A und B. Impfstoffen wurden den Haeflingen - wie der Zeuge Kogon aussagte - die Paratyphus-Bazillen in Kartoffelsalat verabreicht. Er erklarte auch, dass die in Buchenwald mit anderen Krankheiten ausser Typhus vorgenommenen Versuche, allerdings in wenigen Faellen toedlich verliefen. (Kogon, R.1182-3). Auch die Ergebnisse dieser Versuche wurden dem Ante XVI mitgeteilt.

Die Eintragungen vom 17. Juli 1944 und vom 13. Oktobe 1944 fuehren an, dass den sich von Fleckfieber erholenden Insassen zwischen den 13. und 21. Tage - nachdem das Fieber nachgelassen hatte - Blut entzogen wurde, damit ein Serum zur Erholung nach Fleckfiebererkrankung erzeugt werden kann. Diese Arbeiten wurden von SS-Hauptsturmbannfuehrer Dr. Ellenbeck ausgefuehrt, der - wie Genzken zugibt - dem Hygienischen Institut der Waffen-SS zugeweiht war. (R 3826). Der Zeuge Kogon sagte aus, dass Ellenbeck im Block No. 46 Blut von Fleckfieberrekonvaleszenten vom Sommer 1944 bis in den Fruehling 1945 entnahm. Diesen Versuchspersonen wurde regelmassig Blut entzogen und zwar gewoehnlich in Mengen von 250 und 350 Kubikcentimetern. Die Entnahme von Blut von den sich erholenden Patienten bedeutete fuer diese eine aussergewoehnliche Belastung und eine Anzahl von ihnen starb daher.

Obzwar man unter diesen Umständen die wirkliche Todesursache nicht genau feststellen konnte, so besteht doch kein Zweifel, dass die Blutentnahme viel dazu beitrug. Kogon bezeugte, dass dieses Serum zur Erholung nach Fleckfieberkrankheit u.a. auch fuer das SS-Krankenhaus in Berlin, das Genzken unterstand, gewonnen wurde. (Kogon, R. 1192-3). Die Aufzeichnungen in Ding's Tagebuch besagten, dass dieses Serum dem Ante XVI der Amtsgruppe D des SS-Fuehrungs-Hauptquartiers uebersandt wurde. Wir muessen daran erinnern, dass Genzken Chef der Amtsgruppe D war, welche der Sanitaetsdienst der Waffen-SS war.

Kogon erklarte weiter, dass Ellenbeck fuer die Blutentnahme zur Blutplasmaerzeugung systematisch Invaliden und alte Personen aus dem sogenannten "Kleinen Lager" in Buchenwald aussuchte. Die schrecklichen Zustaende im "Kleinen Lager" wurden anschaulich beschrieben. Das Blut wurde von den Opfern verlangt und ihnen auch entnommen. Manchmal wurden diesen verhungernnden Haeftlingen Extrazuteilungen an Nahrung gewährt (Kogon, R. 1194-6). Auf die Frage, ob manche dieser Blutspender des "Kleinen Lagers" in Buchenwald infolge der Blutentnahme starben, antwortete Kogon:

"aus der Frage ersehe ich, dass es sehr schwer ist, sich von dem "Kleinen Lager" in Buchenwald ein wirkliches Bild zu machen. Die Leute starben dort in Massen. Während der Nacht lagen die Leichen nackt in den Blocks, weil sie von den anderen Haeftlingen von den Betten geworfen wurden, damit diese mehr Platz gewinnen. Selbst die kleinsten Kleidungsstuecke wurde ihnen von jenen, die ueberleben wollten, heruntergerissen. Es ist unmoeglich festzustellen, ob jemand direkt wegen und als unmittelbare Folge der Blutentnahme starb, denn viele Leute fielen um und starben während sie in dem kleinen Lager herumgingen.

"Aber niemand, der die Verhaeltnisse dort kannte, wird im geringsten daran zweifeln, dass die Blutentnahme, auch wenn sie diese Leute durch Zuteilung von zusaeztlichen Lebensmitteln etwas staerkte, ein wesentlicher Faktor war, der zum Tode von so vielen dieser Leute beitrug. (Kogon, R. 1196)."

MILITÄRGERICHTSHOF NR. I

FALL NR. 1

NACHTRAG ZUM
ZUSAMMENFASSENDEN SCHRIFTSATZ
DER VEREINIGTEN STAATEN VON AMERIKA
GEGEN
KARL GENZKEN

Nuernberg,
16. Juni 1947

James H. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

Fuer:

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War Crimes



Das folgende ist im Teil II (A), (2) des zusammenfassenden Schriftsatzes der Vereinigten Staaten von Amerika gegen Genzken einzufuegen.

Gasodemserum-Versuche.

Die oidesstattliche Erklerung von Dr. Erwin Schuler, alias Ding, besagt, dass bei einer Konferenz in der Militermedizinischen Akademie in Berlin im Jahre 1942, an der er teilnahm, die Toedlichkeit des Gasodemserums bei verwundeten Soldaten ein Diskussionsgegenstand war. Die Erklerung besagt weiterhin, dass Killian, General Schreiber, Krugowsky und ein Sanitatsoffizier, der ihm unbekannt war, unter den Teilnehmern waren. Killian und Krugowsky erstatteten Bericht ueber Soldaten, die das Serum in grossen Mengen bekommen hatten und Stunden spaeter, nachdem sie sich anscheinend erholt hatten, ohne sichtbaren Grund starben. Man vermutete, dass der Phenolgehalt des Serums am toedlichen Ausgang schuld war. In Gegenwart Killians und Schreibers befahl Krugowsky Ding, an der Herbeifuehrung von Euthanasie mittels Phenol an einem Konzentrationslagerhaeftling teilzunehmen und die Resultate im einzelnen zu beschreiben. Ding beobachtete spaeter die Hinrichtung von vier oder fuenf Personen durch den Angeklagten Hoven im Konzentrationslager Buchenwald. Befehlsgemess berichtete Ding seinen Befund nach Berlin. (NO-257, Ankl. Bew. 283, R. 1091). Zur Zeit dieser moerderischen Experimente waren sowohl Krugowsky als Ding Genzken unterstellt.

"Ende"

Ich, Ernest Oettinger, AGO A 444 369, bestatige hiermit, dass ich durchaus vertraut mit der englischen und deutschen Sprache bin, und dass das Vorstehende eine wahrheitsgemesse und richtige Uebersetzung des Dokuments darstellt.

Muornberg, 16. Juni 1947

ERNEST OETTINGER
AGO A 444369

(Seite 16 des Originals)

B. Sulfanilamide Versuche. (Anklageschrift, Absatz 6 (E))

Der verbrecherische Charakter der Sulfanilamidversuche im Konzentrationslager Ravensbrueck ist in der Klageschrift der Anklage gegen Gebhardt dargelegt worden.

Die Versuche mit Sulfanilamid begannen am 20. Juli 1942 und wurden bis zum August 1943 fortgesetzt. Das Hygieneinstitut der Waffen-SS unter Mrugowsky, welches bis zum 31. August 1943 dem Angeklagten Genzken unterstellt war, unterstützte diese verbrecherischen Versuche und leistete ihnen Vorschub. Mrugowsky und sein Sanitätsstab berieten diese Versuche mit Gebhardt und Fischer und lieferten die Bakterien, die zur künstlichen Infektion der Versuchspersonen dienten. Ausserdem stellte Dr. Blumenreuter die chirurgischen Instrumente und Medikamente fuer die Versuche zur Verfuegung.

Blumenreuter war der Chef von Genzken's Amt XV (Genzken, R.3845-6). Der von Gebhardt ueber diese Versuche vorgelegte vorlaeufige Bericht vom 29. August 1942 stellt fest:

"SS-Oberfuhrer Dr. Blumenreuter hat mir die vollständigen chirurgischen Instrumente und Medikamente zur Verfuegung gestellt. SS-Standartenfuhrer Mrugowsky hat mir sein Laboratorium und seine Mitarbeiter zur Verfuegung gestellt."

In Bezug auf die Art und Weise der künstlichen Infektion besagt der Bericht:

"Es handelte sich zuerst darum, durch einen Versuch unter Verwertung der bekannten Ergebnisse von Versuchen an Tieren die Art und Weise des Infizierens zu bestimmen. Ich wurde in diesen Fragen von SS-Fuhrern des Hygieneinstituts der Waffen-SS beraten, welche die Kultur und Dosierung des Impfstoff's uebernommen hatten."

In den ersten Versuchsserien umfassten die vom Hygieneinstitut der Waffen-SS gelieferten Kulturen: Staphylokokken, Streptokokken, Para Oedema Malignum und Bacteria Fraenkel und Erde. Der Bericht faehrt fort:

"Der Verlauf der einleitenden Versuchsreihen hatte erwiesen, dass es uns nicht gelungen war, die gleichen Symptome wie beim klinischen Gasgangraen hervorzurufen. In einer Besprechung mit dem Hygieneinstitut der Waffen-SS wurden die Natur der Infektion und die Lebensbedingungen der Keime nicht fuer gleichwertig mit den natuerlichen Bedingungen in der Kriegschirurgie angesehen, und folglich wurden die Versuchseinrichtungen abgeandert."

(Seite 17 des Originals)

Darauf wurde der Impfstoff verstaerkt und ein weiterer Versuch wurde angestellt. In der Behandlung dieses Versuchs stellt der Bericht fest:

"Da auch bei diesen Versuch klinisch gesprochen ein ausgesprochener Brand hervorgerufen werden konnte, das Bild jedoch in keiner Weise dem in der Kriegschirurgie bekannten entsprach, wurde nach weiterer Beratung mit den Mitarbeitern im Hygieneinstitut der Waffen-SS der Impfstoff durch Zusatz von Holzspaanen veraendert. In der bakteriologischen Literatur ist es bekannt, dass die Virulenz der Bakterien im Versuchstier dadurch erheblich gesteigert werden kann." (NO-2734, Pros.Ex. 473, R. 5622).

Die eidesstattliche Erklaerung des Angeklagten Fischer stellt im wesentlichen dieselben Tatsachen fest. Als nach den ersten zwei Serien von Sulfanilamid-Versuchen keine schweren Infektionen eintraten, wurde auf Vorschlag von Mrugowsky und nach Beratung mit seinen Assistenten beschlossen, die Art der Bakterien zu wechseln und eine staerkere Kultur anzuwenden. Mrugowsky's Amt praeparierte die neue Kultur speziell fuer die Versuche aus getrennten Kulturen von drei oder vier vorraetigen Gangrenkulturen. Die Schwere der nach dieser Versuchsreihe eintretenden Infektionen war noch immer nicht typisch fuer die Brandinfektionen des Schlachtfeldes. Wieder wurde das Hygieneinstitut der Waffen-SS zu Rate gezogen. Auf Anraten dieser Stelle wurden Holzspaene und Glas den Kulturen begefuegt, um eine ernstere Infektion hervorzurufen. (NO-228, Pros.Ex. 206, R. 768-9). Dieser Beweis wird weiter durch die eidesstattlichen Erklaerungen der Lageraerzte in Ravensbrueck Rosenthal und Scheidlowsky bestaetigt (NO-858, Pros.Ex. 223, R.889; NO-508, Pros.Ex. 224, R. 893).

In einer anderen eidesstattlichen Erklaerung sagt Fischer aus, dass Genzken den Bericht ueber die Sulfanilamidversuche in der Versammlung der beratenden Aerzte im Mai 1943 gehoert hat. (NO-472, Pros.Ex. 234, R. 940). Genzken leugnet seine Anwesenheit dabei. (R. 3801).

C. Andere Versuche.

Der Beweis zeigt, dass Genzken von anderen verbrecherischen Versuchen Kenntnis hatte und daran teilnahm.

Die beruechtigten Hoehen- und Kaelteversuche waren darunter nicht die geringsten. Am 13. Dezember 1942 schickte Himmler eine Forschungsanweisung ueber weitere Hoehen- und Kaelteversuche an Dr. Rascher in Dachau. Diese Verfuegung wurde dem Sanitaetsamt im SS-Fuehrungshauptamt, dessen Chef Genzken war, erteilt. (1612-PS, Pros.Ex. 79, R. 229). Weitere Durchschlaege gingen an Pohl, Leiter des SS-Wirtschafts- und Verwaltungshauptamtes und aller Konzentrationslager, und an Ahnenerbe. Somit wurden die Stellen, deren Mitarbeit bei diesen Versuchen erforderlich war, benachrichtigt. Der Begleitbrief Brandts zu Himmlers Niederschrift erklart, dass die Empfaenger

"dem Hauptsturmfuhrer Dr. Rascher die zur Ausfuehrung seiner Versuche benoetigte Unterstuetzung rechtzeitig beachten und gewaehren sollten." In Absatz 5 seiner Niederschrift erklart Himmler:

"Die Beschaffung der zu allen Versuchen erforderlichen Apparate sollte mit dem Amt des Reichsarztes-SS, des SS Hauptamtes fuer Wirtschaft und Verwaltung und mit dem Ahnenerbe e.V. eingehend besprochen werden. Die erforderlichen Chemikalien, aertzlicher Bedarf und Glasgut werden durch das SS-Sanitaetsamt beschafft."

Genzken gibt zu, dass sein Amt die Anweisung erhalten hat. (R. 3881). Er gibt zu seiner Entschuldigung an, dass sein Untergebener Blumenreuter allen SS-Stellen den aertzlichen Bedarf zur Verfuegung gestellt hat. (R. 3882). Das ist sicher keine Verteidigung. Die Versuche, an denen Rascher teilnahm, waren fuer Genzken keine Ueberraschung. Obersturmbannfuhrer Muethum vom Hygieneinstitut der Waffen SS nahm an der Luftwaffenversammlung in Nuernberg im Oktober 1942 teil, als ueber diese Versuche berichtet wurde. (NO-401, Pros.Ex. 93, R. 309). Genzken gibt zu, an der Versammlung der beratenden Aerte Anfang December 1942 teilgenommen zu haben, als darueber wieder berichtet wurde. (R. 3779).

(Seite 19 des Originals)

Ausserdem verhandelte sein Untergebener Mrugowsky am 21. Oktober 1942 mit Sievers ueber eine Zusammenarbeit zwischen dem Hygieneinstitut der Waffen-SS und Rascher in Bezug auf die Kaelteversuche. Noch eine weitere Zusammenkunft fand am 20. November 1942 statt. (NO-647, Pros. Ex. 124, R. 383).

Genzken beachtete Himmlers Anweisung vom 13. Dezember 1942, dass sein Amt Rascher die benoetigte Unterstuetzung geben sollte. Am 1. Februar 1943 trafen Sievers und Blumenreuter sich zum Zwecke der Beschaffung von Apparaten, Instrumenten, Werkzeugen und Chemikalien fuer Raschers Versuche (NO-538, Pros. Ex. 122, R. 379).

Genzkens Untergebener Blumenreuter hat sich auch nicht darauf beschaenkt, Rascher zu helfen. Am 7. Juni 1943 schrieb Clauberg an Himmler ueber seine Sterilisationsversuche an Juedinnen in Auschwitz. Bei diesen Versuchen benutzte er eine Roentgenmaschine. Dazu sagte er: "Es war SS-Erregdefuehrer Dr. Blumenreuter, den es endlich gelang, mir eine passende Roentgen-Einrichtung zu verschaffen". (NO-212, Pros. Ex. 173, R. 570).

Es ist fuer Genzken keine Verteidigung, wenn er sagt, er habe von diesen Dingen nichts gewusst. Diese verbrecherischen Versuche waren nicht sporadische, vereinzelte Ausschreitungen von moralisch minderwertigen Einzelpersonen; sie waren systematisch geplante Verbrechen. Es war Genzkens Pflicht von seinen Untergebenen Berichte zu verlangen und ihre Handlungen zu ueberwachen. Anwendung des Begriffes, supra.

III. Schlussfolgerungen.

Genzken stand in enger Verbindung mit den verbrecherischen Fleckfieberversuchen in Buchenwald zwischen Januar 1942 und September 1943. Diese Versuche wurden von ihm unmittelbar unterstellten Militaerärzten ausgefuehrt. Er hatte von den Einzelheiten der Versuche Kenntnis. Er erliess Befehle in Bezug auf die Fleckfieberversuche und die Impfstoffherstellung. Der Impfstoff, welcher in Buchenwald in dem Block, der zugestandenermassen ihm unterstellt war, hergestellt wurde, war das Ergebnis von Versuchen an Haeflingen.

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Genzken stand in Verbindung mit anderen Versuchen in Buchenwald einschliesslich der Versuche mit Gelbfieber, Blattern, Typhus, Fleckfieber-, Paratyphus A und B, Cholera und Diphtherie-Impfstoffen und mit der Entnahme von Blut von Insassen fuer Typhusheilserum und Blutplasma.

Dienststellen unter Genzkens Aufsicht lieferten Infektionsmaterial, chirurgische Instrumente und Medikamente fuer die brutalen Sulfanilamidversuche in Ravensbrueck. Seine Fachleute erteilten den Aerzten, welche die Versuche ausfuehrten, technische Ratschlaege hinsichtlich der Art und Weise, in welcher die Infektionen schwerer gemacht werden koennten.

Endlich zeigen die Beweise, dass Genzken unterstellte Offiziere Apparate fuer Rascher's Kaelteversuche und die Clauberg's Sterilisationsversuche lieferten. Genzken erhielt Himmlers Befehl an Rascher ueber Koechen- und Kaelteversuche und wurde beauftragt, mit ihm zusammenzuarbeiten.

Nichts kann zur Milderung fuer den Angeklagten gesagt werden. Er hatte eine hohe Stellung im Sanitaetsdienst der SS. Er verfuegte ueber grosse Macht. Er war mit den gesetzlosen Dschungeln der Konzentrationslager vertraut. Die Anklage legt dar, dass das Beweismaterial bestaetigt, dass Genzken eine Hauptperson und ein Mitbeteiligter war, dass er in Verbindung stand mit Plaenen und Unternehmen, die medizinische Versuche an menschlichen Objekten ohne ihre Einwilligung in sich schlossen, dass er sie befahl, unterstuetzte und ihnen zustimmte und dass im Verlauf dieser Versuche Morde, Brutalitaeten, Grausamkeiten, Quälereien, Greuel und andere unmenschliche Handlungen ausgefuehrt wurden und dass seine Schuld festgestellt worden ist unter Punkt Eins, Zwei Drei und IV der Anklageschrift.

(Ende)

BEGLAUBIGUNG DER UEBERSETZUNG

29. Mai 1947

Ich, Gerta KANNOVA, No. 20 181, bestaetige
hiormit, dass ich vollkommen vertraut mit der
englischen und deutschen Sprache bin, und dass das
Vorstehende eine wahrheitsgemaesse und richtige
Uebersetzung darstellt.

Gerta KANNOVA,
No. 20 181.

M I L I T A E R T R I B U N A L N O . I

FALL NO. 1

ABSCHLIESSENDE DARLEGUNG FÜR
DIE VEREINIGTEN STAATEN VON AMERIKA
GEGEN
SIEGFRIED HANDLOSER

Nuernberg,
16. Juni 1947.

James M. McHaney
Alexander G. Hardy
Arnost Horlick-Hochwald
Esther Jane Johnson

Fuer:

Telford Taylor
Brigadier General, U.S.A.,
Chief of Counsel for War Crimes.



EINFUEHRUNG

Unter Anklagepunkt I wird von der Anklagebehörde Handloser zur Last gelegt, dass er sich zu einer Verschwörung und Uebereinkunft mit anderen Personen zusammengefunden habe, um im Verfolge eines gemeinsamen Vorhabens aerztliche Experimente an lebenden Menschen ohne deren Zustimmung vorzunehmen; und unter Punkt II und III (Kriegsverbrechen und Verbrechen gegen die Menschlichkeit), dass er Haupttaeter, Teilnehmer, Anstifter, Vorschubleistender war, seine Zustimmung gab und in Verbindung stand mit Plaenen und Unternehmungen, die die Durchfuehrung medizinischer Experimente ohne Zustimmung der Betroffenen an lebenden Menschen zum Gegenstand hatte.

I. STELLUNG UND VERANTWORTUNG

Der Angeklagte Handloser hatte Stellungen mit grossem Einfluss und Verantwortung im militaerischen Sanitaetswesen des Dritten Reiches inne. Nachdem er schon als Sanitaetsoffizier im regulaeren Heere unter dem Kaiser und in der Weimarer Republik gedient hatte, stieg er nach 1933 rasch vom Chef-Sanitaetsoffizier im Wehrkreis Stuttgart zum Chef-Sanitaetsoffizier der deutschen Streitkraefte in Oesterreich unter General List auf, als dieses Land im Jahre 1938 dem nationalsozialistischen Angriff unterlag. Als der Krieg ausbrach wurde er Chef-Sanitaetsoffizier der 14. Armee in Polen und spaeter der 12. Armee in Frankreich. Im November 1940 wurde er stellvertretender Heeres-Sanitaetsinspekteur. Am 1. Januar 1941 wurde er zum Heeres-Sanitaetsinspekteur ernannt und einen Monat spaeter wurde er ausserdem Heeresarzt, der der Oberste Sanitaetsoffizier der Feldstreitkraefte war, und brachte auf diese Weise diese beiden Aemter in eine Personalunion. (NO-443, Ankl.Bew.10, R.97; Handloser R.2818-9). Als Heeres-Sanitaetsinspekteur und Heeresarzt hatte Handloser vollstaendige Befehlsgewalt und Kontrolle ueber den gesamten Heeressanitaetsdienst, der bei weitem der groesste Sanitaetsdienst der Wehrmacht war. Er hatte diese Stellungen von Januar 1941 bis September 1944 inne. (Handloser R.2990). Bezueglich einer technischen Beschreibung der Pflichten des Heeres-Sanitaetsinspektors und Heeresarztes siehe Dok. H.A.28a, Handloser Bew.2, R.2822, und Dok. H.A. 28, Handloser Bew.1, R.2821.

In seiner Eigenschaft als Heeres-Sanitaetsinspekteur waren Handloser die beratenden Aerzte der Armee, die militaer-aerztliche Akademie, die Typhus und Virus Institute des OKH in Krakau und Lemberg unter Dr. Eyer, und die medizinische Schule fuer Gebirgstruppen in St. Johann unterstellt. (NO-202, Ankl.Bew.9, R.97; Dok. H.A.29, Handloser Bew.4, R.2828). Er stieg bis zum Generaloberstabsarzt auf.

Am 28. Juli 1942 erliess Hitler eine auch von Keitel, dem Chef des Oberkommandos der Wehrmacht, unterzeichnete Verordnung, die den Angeklagten Handloser zum Chef des Wehrmachtssanitaetswesens ernannte, ausser seinen Pflichten als Heeres-Sanitaetsinspekteur und Heeresarzt. Er wurde mit der Gleichrichtung aller, dem Sanitaetsdienst der Wehrmacht und den der Wehrmacht untergeordneten oder beigeordneten Organisationen und Verbaenden und auch dem Sanitaetsdienst der Waffen-SS obliegenden Aufgaben betraut. Handloser sollte die Wehrmacht in allen allgemeinen medizinischen Fragen den Zivilbehoerden gegenueber vertreten und die Interessen der Wehrmacht in allen aerztlichen, von den Zivilbehoerden ergriffenen Massnahmen wahrnehmen. Um eine gleichgerichtete Behandlung dieser Probleme zu erreichen, wurde ihm ein Sanitaetsoffizier der Marine und ein Sanitaetsoffizier der Luftwaffe, der letztere in der Eigenschaft als Stabschef, zur Arbeit zugewiesen. Grundsaeztliche Probleme bezueglich des Sanitaetswesens der Waffen-SS sollten im Benehmen mit dem Sanitaetsinspekteur der Waffen-SS, dem Angeklagten Genzken, ausgearbeitet werden. (NO-080, Ankl.Bew. 5, R.93; NO-202, Ankl.Bew.9, R.97).

Der Fuehrererlass vom 28. Juli 1942 war der gleiche, der das Amt des Generalkommissars fuer das Gesundheits- und Sanitaetswesen unter Karl Brandt schuf, dem Handloser auf der militaerischen Seite und Conti auf der zivilen Seite untergeordnet waren. Dieser Erlass wurde ausfuehrlich im Schriftsatz der Anklagebehoerde betreffs Karl Brandt behandelt. Soviel jemand auch den genauen Umfang von Handlosers Autoritaet auf Grund dieses Erlasses disputieren mag, so

kann nicht geleugnet werden, dass er der mächtigste Offizier im gesamten Heeressanitätswesen war.

Vor diesem Erlass gab es vier gesonderte Sanitätszweige der Wehrmacht - das Heer, die Luftwaffe, Marine und die Waffen-SS, von denen jeder einzeln und unabhängig voneinander handelte. Im Verfolge dieses Erlasses wurde Handloser dazu ernannt, ihre Operationen zu koordinieren und zu vereinheitlichen und er war Keitel, als dem Chef des Oberkommandos der Wehrmacht (OKW), unmittelbar verantwortlich.

Der Führererlass vom 7. August 1944 zusammen mit den angehefteten Dienstvorschriften wirft beträchtliches Licht auf die Funktionen Handlosers, als Chef des Heeressanitätswesens der Wehrmacht. (NO-227, Ankl.Bew.11, R.101). Nach Handlosers Aussage wurden mit diesem Erlass zwei Dinge erreicht: Erstens gab er seine Stellungen als Heeressanitätsinspekteur und Heeresarzt auf, und zweitens erhielt er als Chef des Sanitätswesens der Wehrmacht die Vollmacht, direkt Befehle an die Chefs des Sanitätswesens des Heeres, der Luftwaffe, Marine und Waffen-SS zu erlassen. (R.2999). Früher war er ermächtigt, Instruktionen zu erteilen, aber er gibt zu, dass Keitel, dem er unterstellt war, Befehle für ihn erlassen haben konnte. (R.3000; Wuerfler, R.3109). Deshalb sind, mit Ausnahme des rein technischen und unwesentlichen Unterschiedes zwischen einem Befehl und einer Instruktion, die in der Dienstvorschrift vom 7. August 1944 niedergelegten Rechte und Pflichten im wesentlichen dieselben wie in der Dienstvorschrift vom 23. Juli 1942, die nicht vorhanden ist. (Siehe Handloser Kreuzverhör R.2992-3004).

Die Dienstvorschrift vom August 1944 legt die Tatsache fest, dass Handloser direkt dem Chef des Oberkommandos der Wehrmacht unterstellt war. Er war Vorgesetzter des Chefs des Heeressanitätswesens, Chef des Marinesanitätswesens und Chef des Luftfahrtsanitätswesens und Chef des Waffen-SS-Sanitätswesens und aller Organisationen und Dienststellen, die im Rahmen der Wehrmacht tätig waren und aller wissenschaftlichen medizinischen Institute, Akademien und der

medizinischen Institutionen der Waffengattungen der Wehrmacht und der Waffen-SS.

Er war Berater des Chefs des Oberkommandos der Wehrmacht in allen Fragen, die das Sanitaetswesen der Wehrmacht und ihren Gesundheitszustand betrafen. Er musste das gesamte Sanitaetswesen der Wehrmacht leiten, soweit das Sondergebiet in Frage kam unter Ruecksichtnahme auf die militaerischen Instruktionen des Chefs des OKW und auf die allgemeinen Vorschriften des Angeklagten Karl Brandt in seiner Eigenschaft als Generalkommissar fuer das Gesundheits- und Sanitaetswesen. Auf dem Gebiet der medizinischen Wissenschaft war es seine Aufgabe, einheitliche Massnahmen auf dem Gebiet des Gesundheitswesens, Forschungen bezueglich Epidemien und ihrer Bekaempfung und alle medizinischen Angelegenheiten durchzufuehren, die eine einheitliche Regulierung in der Wehrmacht erforderten, und ferner hinsichtlich der Auswertung medizinischer Erfahrung. Er sorgte fuer eine einheitliche und planmaessige Leitung der Zuteilung von Personal und Material.

Dies nun waren die Rechte und Pflichten des Angeklagten Handloser als Chef des Heeressanitaetswesens der Wehrmacht von Beginn dieses Amtes im Juli 1942 an. Er war der Vorgesetzte in "technischen" oder medizinischen Fragen, die die Chefs des Sanitaetswesens der vier Waffengattungen der Wehrmacht betrafen. (Siehe Handloser R.2983). Die Tatsache, dass diese Chefs noch andere militaerische Vorgesetzte gehabt haben moegen, was von Handloser sehr stark betont wurde, geht vollstaendig an der Hauptsache vorbei. Handlosers Stellung vor September 1944 als Chef des Sanitaetswesens der Wehrmacht gegenueber den Chefs des Sanitaetswesens der Waffengattungen der Wehrmacht, kann verglichen werden mit Keitels Stellung als Chef des Oberkommandos der Wehrmacht gegenueber den Oberbefehlshabern der Waffengattungen der Wehrmacht. Keitel war in Wirklichkeit der Chef von Hitlers militaerischem Stab. Als solcher hatte Keitel keine Befehlsgewalt ueber die Waffengattungen der Wehrmacht. Aber dies betrifft einzig und allein reine Befehlsangelegenheiten und bedeutet nicht, dass Keitel nicht Direktiven erlassen konnte, die in jeder Hinsicht fuer Oberbefehlshaber der Waffengattungen der Wehrmacht bindend waren. (Lammers R.2687, siehe Urteil des IMT, "Prozess gegen die Hauptkriegsverbrecher", Seite 288).

Dasselbe gilt fuer Handloser als Chef des Sanitaetswesens der Wehrmacht vor September 1944. Waehrend er keine Befehlsgewalt ueber das Sanitaetswesen der Luftwaffe hatte, z.B. in taktischen Bestimmungen ueber Sanitaetsverbaende und dergleichen, hatte er die Vollmacht, die Taetigkeit aller Sanitaetsverbaende zu vereinheitlichen und gemeinsame Grundsaeetze aufzustellen. Dass er die Autoritaet hatte, medizinische Experimente durch Mitglieder des Heeressanitaetswesens an Konzentrationslagerinsassen ohne ihre Einwilligung zu verbieten, versteht sich von selbst.

Wie Handloser in seiner eidesstattlichen Erklaerung erwachnt, war z.B. der Heeresarzt "militaerisch" dem Chef des Generalstabsunterstellt, und beruflich dem Heeres-Sanitaetsinspekteur. (Dok. H.A. 29, Handloser Bew.4, R.2828). Auf dieselbe Weise waren der Angeklagte Schroeder und sein Vorgaenger Hippke militaerisch in der letzten Instanz Goering als dem Oberbefehlshaber der Luftwaffe unterstellt, aber in medizinischen Dingen unterstanden sie dem Chef des Sanitaetswesens der Wehrmacht, und beide haben dies auch ausgesagt. Im Abschnitt 8 seiner eidesstattlichen Erklaerung sagt Schroeder: "Karl Brandt, Handloser und Rostock waren ueber die von der Luftwaffe durchgefuehrten medizinischen Forschungsarbeiten unterrichtet. Handloser war der Chef des Sanitaetswesens der Wehrmacht und mein Vorgesetzter in medizinischen Angelegenheiten. (NO-449, Ankl.Bew.130, R.174). Er bestaetigte diese Aussage im Kreuzverhoer. (R.3604). Hippke sagte im Fall Nr.II, vor dem Militaergerichtshof II aus, dass Handloser ihm Befehle erteilen und Richtlinien festlegen konnte. (R.3001). Siehe auch die Organisationstabellen des Sanitaetswesens der Luftwaffe. (NO-416, Ankl.Bew.12, NO-419, Ankl.Bew.13, R.105).

Bezuglich der SS sind dieselben Tatsachen nachgewiesen worden. Der Angeklagte Genzken, Chef des Sanitaetswesens der Waffen-SS, sagt im Absatz 9 seiner eidesstattlichen Erklaerung: "Waehrend des ganzen Krieges waren Sanitaetsfeldverbaende der Waffen-SS dem Sanitaetswesen des Heeres unterstellt, das von Dr. Handloser geleitet wurde. Durch Fuehrererlass vom 29. Juli 1942 wurde Dr. Handloser

zum Chef des Sanitaetswesens der Wehrmacht ernannt. Als Folge dieser Umstellung wurde Handloser mein direkter Vorgesetzter, soweit medizinische Angelegenheiten in Frage kamen." (NO-439, Ankl.Bew.24, R.125). Siehe auch die Organisationstabellen des Sanitaetsdienstes der SS, die von dem Angeklagten Krugowsky gezeichnet wurden. (NO-416, Ankl.Bew.22; NO-417, Ankl.Bew.23, R.121). Tatsaechlich zeigt die Tabelle der Organisation des Sanitaetswesens der Wehrmacht, die von dem Angeklagten Handloser selbst gezeichnet wurde, seine Befehlsgewalt ueber die vier Sanitaetswesen in einer sehr klaren Weise. (NO-282, Ankl.Bew.9, R.97). Wenn er nun versucht diese Befehlsgewalt abzustreiten und zu behaupten, dass er Chef nur dem Namen nach gewesen sei, dann geschieht dies aus ganz offensichtlichen Gruenden. Die Wichtigkeit der Stellung Handlosers wird weiter in der von dem Angeklagten Karl Brandt gezeichneten Tabelle aufgezeigt. (NO-645, Ankl.Bew.3, R.86).

Die ausgedehnte Macht und Befehlsgewalt des Angeklagten Handloser als Chef des Sanitaetswesens der Wehrmacht, besonders im Hinblick auf aerztliche Forschung, wird auch durch anderes Beweismaterial in den Akten nachgewiesen. Handloser gibt zu, dass der Einsatz von Material und Personal ein Problem war, das allen Zweigen der Wehrmacht gemeinsam war, und dass derselbe vom 28. Juli 1942 ab ihm unterstand.

(R.3004). Er gibt zu, dass die Koordination der wissenschaftlichen Forschung eine seiner Aufgaben auf allen Gebieten war, wo es verlangt wurde und notwendig war. (R.3038). Er gibt zu, dass er in allgemeinen Dingen auf dem Gebiet der Militaermedizin ziemlich gut informiert war.

(R.3005). Er rief die Chefs des Sanitaetswesens zusammen, um Doppelarbeit bei der Forschung zu vermeiden, und er erwachte besonders Konferenzen, die sich mit Malaria, Typhus, Para-Typhus und Cholera befaassten. (R.3008). Auf dem Gebiet der Fleckfieberbekaempfung wurden, soweit Entlausung in Frage kam, von allen Sanitaetswesen gleichgerichtete Massnahmen ergriffen.

Er hatte die Macht eine einheitliche Methode fuer Impfungen einzufuehren und keine Verfuegungen wurden erlassen, ohne dass mit den beratenden Aerzten verhandelt wurde. (R.3009). Spaetestens im Februar 1944 erliess er Instruktionen an alle Sanitaetswesen der Wehrmacht, das Amt fuer Wissenschaft und Forschung, das unter den Angeklagten Karl Brandt und Rostock stand, ueber Forschungsaufgaben auf dem laufenden zu halten. (R.3008).

Eines der hauptsaechlichsten Mittel, die der Angeklagte Handloser anwandte, um wissenschaftliche Forschung zu koordinieren, war die gemeinsame Zusammenkunft von beratenden Aerzten der vier Zweige der Wehrmacht. Diese Zusammenkuenfte fanden mindestens einmal im Jahr statt und manchmal haeufiger. Sie wurden von dem Angeklagten Handloser einberufen und von ihm geleitet. (Handloser R.3009). Der Zweck der Zusammenkuenfte war, eine Basis zum Erlass von medizinischen Richtlinien an die ~~Feld~~ ^{Fe}streitkraefte zu finden. (Handloser R.3020). In den Sitzungen, denen hervorragende Fachpaenner auf dem Spezialgebiet, z.B. Hygiene oder Chirurgie beiwohnten, wurden Vortraege ueber medizinische Forschung von verschiedenen beratenden Aerzten gehalten. Die Vortraege wurden von ihren wissenschaftlichen Kollegen einer kritischen Pruefung unterzogen und die praktischen Resultate klassifiziert, zusammengefasst und in der Form von Richtlinien herausgegeben. (Handloser R.3013). Das Programm fuer diese Zusammenkuenfte wurde unter der Leitung von Handloser aufgestellt. Generalarzt Schreiber, der bis zum Spaetjahr 1943 dem Stab der Heeres-sanitaetsinspektion zugeteilt war und dann die Leitung der Lehrgruppe C der militaeraerztlichen Akademie hatte, half Handloser bei dieser Arbeit. (Handloser R.3011, 3020). Wie wir spaeter sehen werden, wurde bei diesen Zusammenkuenften ueber eine Anzahl von verbrecherischen Experimenten an Konzentrationslagerinsassen berichtet.

Bei der zweiten Zusammenkunft der beratenden Aerzte vom 30. November bis 3. Dezember 1943 in der militaeraerztlichen Akademie wies Handloser eindringlich auf die Aufgabe des Chefs des Sanitaetswesens der Wehrmacht hin, die medizinische wissenschaftliche Forschung zu vereinheitlichen. (NO-922, Ankl.Bew. R.2050).

Als er eine Ansprache an die Vollversammlung hielt, sagte er:

"Anforderungen und Ausweitungen dieses totalen Krieges, sowie das Verhältnis zwischen Bedarf und Bestand personeller, wie materieller Art bedingen auch auf militärischem und sanitätsdienstlichem Gebiet Massnahmen, die der Vereinheitlichung und der einheitlichen Steuerung dienen. Es heisst nicht "getrennt marschieren und vereint schlagen", sondern es muss auf allen Gebieten von vornherein vereint marschiert und geschlagen werden.

Auf den militärischen Sektor bezogen ist hieraus auf unserem Gebiet das "Wehrmacht-Sanitätswesen" und damit der "Chef des Wehrmacht-Sanitätswesens" entstanden. Nicht nur in personellen und materiellen Dingen - soweit das ueberhaupt moeglich ist im Hinblick auf unbedingt zu beruecksichtigende Sondergebiete und Sonderaufgaben - sondern auch hinsichtlich aerztlich-wissenschaftlicher Ausbildung und Forschung, soll und muss der Weg im Wehrmacht-Sanitätswesen weitgehendst ein gemeinsamer sein.

Dementsprechend hat auch der Teilnehmerkreis dieser hiermit von mir eroffneten 2. Arbeitstagung Ost eine andere Zusammensetzung, als die 1. Arbeitstagung im Mai dieses Jahres. Damals war es eine Tagung des Heeres, heute sind die drei Wehrmachtsteile, die Waffen-SS und Polizei, der Arbeitsdienst und die Organisation Todt beteiligt und vereinigt.

Meine Herren, Sie werden mir sicherlich gestatten, dass ich Sie alle mit einem gemeinsamen Willkommensgruss begruesse und mit dem aufrichtigen Wunsche, dass unsere gemeinsame Arbeit der erhoffte, gemeinsame Erfolg beschieden sei. Einen besonderen Gruss moechte ich aber auch dem Reichsgesundheitsfuhrer, Herrn Staatssekretaer Conti, richten, in dessen Hand die zentrale Steuerung des Sanitätswesens im zivilen Sektor gelegt ist. Ich sehe in seiner Anwesenheit nicht nur das Interesse fuer unsere Arbeitsthemen, sondern den Ausdruck seiner Verbundenheit mit dem Wehrmacht-Sanitätswesen und seines Verstaendnisses fuer die besonderen Belange der Wehrmacht im Felde wie in der Heimat. Ich brauche nicht zu betonen, dass wir eins sind in der Erkenntnis der Notwendigkeit, den Kaempfer darueber versichert und beruhigt zu halten, dass er sich um die gesundheitliche Betreuung der Heimat, im Rahmen des im Kriege ueberhaupt moeglichen, keine Sorgen zu machen braucht." (Unterstreichungen eingefuegt).

Und wiederum bei der 4. Tagung der beratenden Aerzte vom 16. bis 18. Mai 1944 in Hohenlychen, betonte der Angeklagte Karl Brandt die Wichtigkeit von Handlosers Stellung, indem er sagte:

"Herr Generaloberstabsarzt Handloser, Sie selbst, Soldat und Arzt zugleich, tragen dabei die Verantwortung fuer Einsatz und Leistung unserer Sanitätsoffiziere.

Ich glaube, und es ist wohl die einzige Erwartung aller Beteiligten, dass die des von Verantwortungsbewusstsein getragenen, heute hier in Hohenlychen beginnenden Besprechungen zum Nutzen unserer Soldaten gefuehrt werden. Die bisherigen Leistungen Ihrer Herren, Herr Generaloberstabsarzt, sprechen eindeutig

dafuer, und deren Einsatzbereitschaft erfuehlt uns alle mit Stolz und - ich kann das wohl auch sagen - mit Zuversicht.

Es ist gut, diese Dinge einfach so zu benennen und zu betrachten, wie sie sind. Diese Tagung ist sichtbarer Ausdruck dafuer - sie ist es und soll es und muss es auch in jeder Beziehung sein: Die beratenden Aerzte finden sich um ihren Sanitaetschef. - Sehe ich hier diese Reihe, so sind Sie, Herr Generaloberstabsarzt Handloser, zu beneiden. Fachmaenner der Medizin mit bestem und geschultestem Spezialwissen stehen Ihnen fuer die Betreuung der Soldaten zur Verfuegung. In einer Wechselwirkung zwischen Ihnen und Ihren Herren werden die Probleme unseres aerztlichen Wissens und Koennens lebendig gehalten." (NO-924, Ankl.Bew. 437, R.2067).

Dies war keine Lobrede, die einem Mann ohne Macht und Einfluss gezollt wurde. Und man muss sich vor Augen halten, dass diese Beschreibung von Handlosers Stellung vor dem Fuehrererlass vom 7. August 1944 gegeben wurde.

Handloser stand auch in enger Verbindung mit dem Reichsforschungsrat, dessen Zwecke und verbrecherische Taetigkeit auf Seite 8 bis 11 des Anklageschriftsatzes betreffs Karl Brandt beschrieben ist. Im Herbst 1942 versuchte Handloser selbst Mitglied des Reichsforschungsrats zu werden, aber dies wurde nicht bewilligt mit der Angabe, dass Keitel die Wehrmacht im praesidialrat vertrete. (Handloser R.3020). Schreiber, der Handloser als Heeres-Sanitaetsinspekteur unterstellt war, war auch Mitglied des Reichsforschungsrats. Er wirkte als Beauftragter fuer Epidemienbekaempfung, die sein Spezialgebiet bei der Inspektion war. Schreiber wurde von der Armee fuer diese Stellung empfohlen, und es kann kein Zweifel darueber bestehen, dass er die Heeres-sanitaetsinspektion im Reichsforschungsrat vertrat. (NO-1490, Ankl.Bew. 450, R.3024). Seine Ernennung wurde mit Handloser besprochen. (R.3026). Schreiber war ein enger Mitarbeiter Handlosers und arbeitete mit ihm viele Jahre lang. (Handloser R.3054).

Dies nun waren die gehobenen Stellungen des Angeklagten Handlosers:
Generaleperstabsarzt, Chef der Heeressanitätsinspektion, Heeresarzt,
Chef des Sanitätswesens der Wehrmacht, Berater von Keitel, dem Chef
des Oberkommandos der Wehrmacht und Praesident des wissenschaftlichen
Senats des Sanitätswesens der Wehrmacht. Er benutzte die vorgenann-
ten Stellungen und seinen persönlichen Einfluss in einer Weise, die
das Begehen von Kriegsverbrechen und von Verbrechen gegen die Mensch-
lichkeit, wie sie in der Anklageschrift aufgefuehrt sind, mit sich
brachte.

II. Persönliche Teilnahme an verbrecherischen Experimenten.

Man kann nicht erwarten, dass ein Mann in der Stellung und im Rang von Handloser persönlich verbrecherische Experimente vornehmen würde. Dies war Untergebenen überlassen. Die Beweiserhebung hat indessen klar ergeben, dass er, wie Brandt, persönlich zu Experimenten an Personen ohne ihre Zustimmung ermutigt hat. Er, wie Brandt, war völlig im Bilde darüber, dass an Insassen von Konzentrationslagern systematisch durch ihm unterstellte Sanitätsoffiziere Experimente vorgenommen wurden. Er machte nie von seinen enormen Machtbefugnissen als Chef des Wehrmacht-Sanitätswesens Gebrauch, um diesen verbrecherischen Handlungen Einhalt zu gebieten, die die Ermordung, Folterung und unmenschliche Behandlung tausender hilfloser Männer, Frauen und Kinder der verschiedensten Nationen zur Folge hatten.

Unter Ziffer 6 des Anklagepunkts II der Anklageschrift sind 12 verschiedene Arten von Experimenten im einzelnen aufgeführt. Davon wird Handloser die besondere Verantwortlichkeit für und die Teilnahme an den folgenden zur Last gelegt: Kälte, Malaria, Gas, Sulfanilamid, Knochen, Muskel- und Nervengeneration und Knochenverpflanzung, Seewasser, epidemische Gelbsucht und Typhusexperimenten. Es wurde auch Beweis hinsichtlich seiner Teilnahme an Experimenten in bakteriologischer Kriegsführung und Gas-Oedem vorgelegt. Zwecks Vereinfachung hat die Anklagebehörde die Anklage der Teilnahme an Höhenversuchen fallen lassen (R.2300).

Es ist nicht die Aufgabe der Anklagebehörde, darzutun, dass Handloser mit allen Einzelheiten dieser Experimente vertraut war. Der Beweis genügt, dass er Kenntnis hatte von der systematischen Verwendung unfreiwilliger menschlicher Versuchspersonen für experimentelle Zwecke durch Stellen, über die er ein beträchtliches Mass von Befehlsgewalt und Autorität ausübte. Er hatte die Pflicht, die ihm unterstehenden Dienststellen zu kontrollieren, dass er es unterliess, sie zu erfüllen, macht ihn strafrechtlich verantwortlich für die Handlung seiner Untergebenen. Siehe Yamashita 66 S. Ct. 340, 347 (1946). Für dies und noch mehr :

ist von der Anklagebehörde der Beweis erbracht worden.

A. Typhus und andere Impfstoffversuche (Anklageschrift
Abschnitt 6 J.)

In der Anklageschrift wird Handloser die Verantwortung für Typhusexperimente zur Last gelegt, die im Konzentrationslager Buchenwald hauptsächlich von Dr. Ding-Schuler und im Konzentrationslager Natzweiler von Dr. Eugene Haagen vorgenommen worden waren. Hinsichtlich der Beschreibung und des verbrecherischen Charakters der Experimente in Buchenwald wird auf den Schriftsatz der Anklagevertretung betreffs Mrugowsky verwiesen und hinsichtlich der Experimente im Konzentrationslager Natzweiler auf den Schriftsatz betreffs Rose. Hier interessiert uns einzig und allein, in welchem Zusammenhang der Angeklagte Handloser mit diesen Experimenten stand.

Im Anschluss an den Einfall in Russland im Jahre 1941 begann Typhus zu einer ernstlichen Bedrohung der deutschen Wehrmacht zu werden. Die Anwendung von Impfstoffen für Typhus war eine der hauptsächlichsten Methoden zur Bekämpfung dieser Gefahr. Handloser kontrollierte die Verteilung der Impfstoffe, zuerst in seiner Eigenschaft als "Militärhygieneinspekteur und dann als Chef des Wehrmacht-Sanitätswesens (Handloser R. 3072 - 3074; Schröder R. 3642; Rose, R. 3690). In gleicher Weise befasste sich Handloser mit dem Problem der Herstellung von Typhusimpfstoff. (NO-1318, Ex. 54, R. 3090). Seinem Büro gingen Produktionsberichte zu. (Handloser R. 3071). Im November 1941 schrieb er an Conti, Unterstaatssekretär für Gesundheit im Innenministerium, und schlug vor, dass die Erzeugung von Typhusimpfstoffen in die Hände der pharmazeutischen Grossindustrien gelegt werden solle (50 - 1323, Beweisstück der Anklagebehörde 452, R. 3082). Wie aus einem Brief vom Juni 1943 hervorgeht, ersuchte der Angeklagte Rose den Inspekteur des Luftwaffensanitätswesens, bei dem Chef des Wehrmacht-Sanitätswesens darauf zu drängen, dass er die Erzeugung von Typhusimpfstoffen für alle Zweige der bewaffneten Macht im Ostgebiet anordne (NO-306, Beweisstück der Anklagebehörde 296, R. 1387). Handloser als Chef

des Wehrmacht-Sanitätswesens war allein für die Beschaffung von Impfstoffen an die Wehrmacht zuständig (NO-131, Beweisstück der Anklage 309, R. 1404).

Eines der wichtigsten Probleme im Zusammenhang mit Typhusimpfstoffen war die Wirksamkeit des sogenannten Cox-Haagen-Gildemeister Impfstoffs, das aus Eigelb hergestellt wurde. Die Typhus- und Virus-Institute des OKH in Krakau und Lemberg waren mit der Erzeugung des Weigl-Impfstoffs aus Läuse-Darmkanälen beschäftigt. Diese Methode war indessen viel zu kostspielig und kompliziert, und die zwei Institute konnten keineswegs genügende Mengen Impfstoff für die Wehrmacht herstellen. Der Weigl-Impfstoff war seit ein paar Jahren im Gebrauch gewesen und wurde für ziemlich wirksam gehalten. Der Impfstoff aus Eigelb wurde vom Robert-Koch-Institut und in den Behringwerken u.a. hergestellt, und seine Herstellung war viel einfacher als die des Weigl-Impfstoffs. Man war jedoch der Ansicht, dass eine immunisierende Wirkung noch nicht genügend bewiesen worden sei. Es war deshalb nötig, die Wirksamkeit festzustellen, bevor die Erzeugung im grossen Umfang aufgenommen wurde. Diese Tatsachen gehen aus der eidlichen Aussage von Handloser unter dem Datum 3. Oktober 1945 hervor. (NO-732, Anklage-Beweisstück 451 - R.3060).

Ein Eintrag in Dinges Tagebuch unter dem 29. Dezember 1941 beweist, dass an diesem Tag eine Konferenz stattgefunden hat zwischen Handloser als Chef des "eeres-Sanitätswesens, Conti vom Innenministerium, Reiter von der Abteilung für Volksgesundheit, Gildemeister vom Robert-Koch-Institut und Mrugowsky vom hygienischen Institut der Waffen-SS (NO-265, Ankl. 287, R. 1134). Auf dieser Konferenz wurde der Beschluss gefasst, den Typhusimpfstoff aus Eigelb an Menschen auszuprobieren, um seine Wirksamkeit festzustellen. Ein paar Tage später begannen die ersten Versuchsreihen in Buchenwald, die die immunisierende Eigenschaft von Impfstoff aus Eigelb auf die Probe stellen sollten. 5 Versuchspersonen starben als Folge der künstlichen Infizierung mit Typhus.

Das Beweismaterial zeigt, dass am selben Tag eine frühere

Konferenz stattfand, auf welcher dasselbe Problem besprochen wurde. (NO-1315, Ankl.Bew. 454, R.3086). Diese Konferenz fand im Reichsinnenministerium statt, unter Teilnahme von Beiber vom Reichsinnenministerium, Gildemeister, Vertreter des Generalgouvernements im besetzten Polen, leitende Persönlichkeiten der Behringwerke, der I.G. Farben und Oberstabsarzt Scholz von der Heeres-Sanitätsinspektion, Scholz unterstand dem Angeklagten Handloser. (Handloser, R. 3085). Die Aufzeichnungen über diese Konferenz besagen, dass:

"Der Impfstoff, der zur Zeit von den Behringwerken aus Hühnereiern hergestellt wird, soll experimentell auf seine Wirksamkeit hin untersucht werden. Zu diesem Zweck wird Dr. Beiber mit Obersturmbanführer Dr. Mrugowsky in Verbindung treten."

Da Mrugowsky bei dieser Konferenz nicht anwesend war, liegt es auf der Hand, dass eine andere Konferenz stattfand, bei der diese Angelegenheit mit ihm erörtert wurde, und das bestätigt natürlich den Eintrag in Ding's Tagebuch. Der Angeklagte Rose gab im Kreuzverhör zu, dass zweifellos ausser der Konferenz, bei der Beiber den Vorsitz führte, eine andere stattgefunden habe und dass damals die Reihe der Buchenwald-Experimente beschlossen wurde (R. 6463). Rose wies auch darauf hin, dass die Experimente in Buchenwald staatlich genehmigt wurden (R. 6467). Ein Durchschlag des Protokolls der Konferenz, der Scholz beiwohnte, wurde an Handlosers Büro geschickt. (NO-1321, Ankl. Bew. 453, R. 3084).

Handloser gibt zu, es sei möglich, dass er an einer Konferenz, wie sie in Ding's Tagebuch beschrieben ist, teilgenommen habe. (R. 3061, R. 3066). In seiner eidlichen Aussage vom 3. Oktober 1945 gab er an:

Siehe
Nr.10 "4. Ich soll - nach Angabe des mich vernehmenden amerikanischen Offiziers - in einer Sitzung 1941, an der Reiter, Conti und Mrugowsky teilgenommen hätten, die Durchführung von Fleckfieberversuchen an Menschen vorgeschlagen haben. Zeit, Ort, Teilnehmer und Verlauf einer solchen Besprechung sind mir nach der jahrelangen Zwischenzeit und all ihren Ereignissen nicht in greifbarer Erinnerung.

"5. Hinsichtlich der Fleckfieberfrage kann es sich aber um folgendes gehandelt haben: Die Produktion des bekannten, sehr gut wirksamen, von Läusen stammenden Fleckfieber-Impfstoffes nach Prof. Weigel/Lemberg blieb trotz zunehmender Steigerung noch weit hinter dem Bedarf zurück. - Im Robert-Koch-Institut wurde durch Züchtung auf Hühnereiern ebenfalls ein Fleckfieberimpfstoff hergestellt, über dessen zuverlässige Wirksamkeit aber noch keine genügenden Erfahrungen und Beweise vorlagen. Im Interesse des Schutzes des Kriegsgebietes und der Heimat gegen Fleckfieber musste aber baldigst über diesen Impfstoff Klarheit geschaffen werden. Es ist daher wohl möglich, dass im Verlauf einer Besprechung vereinbart worden ist, Dr. Mrugowsky solle vergleichende Parallelerprobungen über Dosierung, Verträglichkeit und Wirksamkeit der Fleckfieberimpfstoffe an Personen in gefährdeter Umgebung durchführen. Dabei war vor allem ein Urteil darüber zu gewinnen, ob der vom Robert-Koch-Institut hergestellte Impfstoff als genügend wirksam anzusehen sei und in der Wehrmacht auch in Fleckfieberbereichen der Ostfront mit Aussicht auf Erfolg angewandt werden könne." (NO-732, Ankl.-Bew. 451, R. 3060).

Handloser bezeugte, dass eine Reihe von Konferenzen über Fleckfieber und Fleckfieberimpfstoffe stattgefunden hätten. (R.3061). Eines der Hauptprobleme war die Wirksamkeit des Impfstoffes aus Hühnereiern. Im Sommer 1941 traf er Mrugowsky, der ihm von Schreiber von der Heeres-Sanitätsinspektion empfohlen worden war. Mrugowsky stand darnach mit der Wehrmacht in Verbindung. (Handloser, R. 3063). Er gibt zu, dass er mit Mrugowsky persönlich Fühlung genommen hat (R.3064, siehe unten). Handloser gibt zu, dass er im Winter 1941 mit Gildemeister betreffs Impfstoffen aus Hühnereiern in Fühlung gestanden hat. (R.3067), und dass er mit Conti ähnliche Fühlung hatte (R.3068). Handloser gibt zwar das Vorliegen des Problems im Zusammenhang mit Impfstoffen aus Hühnereiern zu, bestreitet aber zu wissen, wie das Problem gelöst wurde, obgleich er seine Lösung einräumt (R.3079).

Es steht außer Frage, dass Ding's Tagebuch authentisch und in jeder Beziehung verlässlich ist. Sein Inhalt wurde

verschiedentlich durch andere Dokumente bekräftigt. (Siehe Schriftsatz betreffs *arugowsky*). Im grossen und ganzen wurde jede Seite des Tagebuches von Ding oder von Schuler, unter welchem Namen er später bekannt wurde, unterzeichnet. Die Echtheit der Unterschriften ist durch Vergleich mit unbestrittenen Unterschriften von Ding-Schuler in den Gerichtsakten nachgewiesen worden. (Siehe Schriftsatz betreffs *arugowsky*). Handloser nahm an der Konferenz teil, bei der die grundsätzliche Entscheidung getroffen wurde, die Wirksamkeit von Typhusimpfstoffen dadurch festzustellen, dass Typhus künstlich in menschlichen Versuchspersonen hervorgerufen wird. Im Verfolge dieses Beschlusses wurden Typhusexperimente in Buchenwald vorgenommen.

Das Beweismaterial hat gezeigt, dass Sanitätsoffiziere, die Handloser direkt unterstellt waren, ueber Einzelheiten der Typhusexperimente in Buchenwald in Kenntnis gesetzt wurden. Ein Brief, den der Angeklagte *arugowsky* unter dem Datum vom 5. Mai 1942 an Oberstabsarzt Dr. Eyer vom Typhus- und Virus-Institut des Oberkommandos der Armee in Krakau schickte, beschreibt unter anderen die Ergebnisse der ersten in Buchenwald durchgefuehrten experimentellen Versuchsreihen. (Dok. *arugowsky* 10, *arugowsky* Bew. 20, R. 5087). Diese Experimentenreihe war zur Erprobung des eiglichen Impfstoffs vom Typhus- und Virus-Institut des Heeres in Krakau und dem von Gildemeister vom Robert-Koch-Institut und den Behringwerken aus Eidotter hergestelltem Impfstoff. Es wurde berichtet, dass die Sterblichkeitsziffer in der nichtgeimpften Gruppe 30 % betrug, waehrend 2 Personen starben, die mit dem Behringschen Impfstoff geimpft worden waren. Auch hier bestaetigt dieses von der Verteidigung vorgelegte Dokument in allen Einzelheiten die Eintraege im Ding-schen Tagebuch betreffs der ersten Versuchsreihen. Handloser beteiligte sich also bei dem Beschluss, die Typhusexperimente in Buchenwald vorzunehmen und Eyer, sein Untergebener, ein Typhus-Sachverstaendiger des Heeres, wurde ueber die Ergebnisse der Experimente unterrichtet.

Dies war nicht der einzige Zusammenhang der Heeres-Sanitaetsinspektion und Handlosers mit den Typhusexperimenten in Buchenwald. Der Zeuge Kogon sagte aus, dass Ding mit der Militaeraerztlichen Akademie in Berlin und dem Typhus- und Virus-Institut des OKH in Krakau hinsichtlich der Typhusexperimente korrespondierte. (R. 1157). Aus dem Ding-Tagebuch geht hervor, dass Eyer und Dr. Schmidt, ein der Heeres-Sanitaetsinspektion zugeteilter Hygieniker, die Typhus-Versuchsstation in Buchenwald am 8. Februar 1943 besichtigten. Dieser Eintrag im Dingschen Tagebuch wurde durch den Arbeitsbericht des Typhus- und Virus-Instituts der Waffen-SS in Buchenwald fuer das Jahr 1943 bestaetigt. (NO-571, Ankl. Bew. 285, R. 1115). Schmidt wurde als Zeuge fuer den Angeklagten Handloser vorgeladen und sagte aus, dass er und Eyer den Besuch in Buchenwald machten, um gewissen SS-Aerzten, deren Namen er nicht angeben konnte, vorzufuehren, wie ein neuer Behaelter fuer Gelbfieber-Impfstoff aufgebrochen werden solle. (R. 3181). Diese laecherliche Behauptung, dass zwei bedeutende Hygieniker der Heeres-Sanitaetsinspektion die lange Fahrt nach Buchenwald aus einem solch unwichtigen Grund unternehmen sollten, ist unglaublich. Selbst der Angeklagte Rose fand Dr. Schmidts Zeugenaussage widersinnig. (R. 6201-2). Schmidt arbeitete unter Handloser in Berlin von 1942 bis August 1944. (Handloser, R. 3059). Es mag sehr gut sein, dass Schmidt und Eyer die Versuchsstation in Buchenwald im Zusammenhang mit den dort vorgenommenen Gelbfieber-Impfstoffexperimenten besucht haben, aber es ist ganz und gar unglaubwuerdig, dass sie den Typhusblock nicht besichtigt haben, denn die Impfstoffexperimente wurden dort vorgenommen. (Siehe unten). Am gleichen Tage, an dem sie dort waren, fand ein Typhusexperiment statt.

Es wurde auch Beweis dafuer erbracht, dass der Experimentierstation in Buchenwald vom

Typhus- und Virus-Institut des OKH mit Typhus infizierte Laeuse geliefert wurden. (Kogon, R. 1220-1; Kirchheimer, R. 1326). Schmidt leugnete das und sprach von der Möglichkeit, dass die Laeuse von den Behringwerken in Lemberg waren. Tatsache ist, dass es nur drei Stellen in Deutschland gab, wo die Laeuse hätten herkommen können - - die Typhus- und Virus-Institute des OKH in Krakau und Lemberg und die Behringwerke in Lemberg (Schmidt, R. 3171). Dies waren die einzigen Institute, die den Weiglschen Impfstoff erzeugten und die deshalb infizierte Laeuse zur Verfügung hatten. (Schmidt, R. 3174). Zwei dieser Institute unterstanden der Kontrolle des Heeres, während das dritte ein halbprivates Institut war; aber selbst die Behringwerke in Lemberg wurden von der Armee unterstützt und ihr Personal wurde von Dr. Weigl, vom Heer, ausgebildet. (NO-1315, Ankl. Bew. 454, R. 3086). Da die Typhus-Versuchsstation in Buchenwald sich den Weiglschen Impfstoff für Experimente Monate vorher beschafft hatte, ehe die Behringwerke in Lemberg eröffnet wurden, ist es ganz offensichtlich, dass dieser Impfstoff zusammen mit den Laeusen vom Typhus- und Virus-Institut des OKH geliefert wurde. Indessen wird die schlüssige Antwort im Dingschen Tagebuch gegeben, aus dem hervorgeht, dass die Laeuse vor dem 30. November 1942 erhalten wurden. Der Eintrag unter dem 15. Dezember 1942 beweist, dass die Behringwerke in Lemberg erst zu dieser Zeit eröffnet wurden. Uebrigens erwähnt die eidesstattliche Erklärung von Dietzsch, dass die Laeuse von einem Offizier der Wehrmacht nach Buchenwald gebracht worden waren. (Hoven Dok. 1, Hoven Dok. Buch 1, Seite 1).

Dr. Ding-Schuler erstattete auf der Tagung der beratenden Ärzte der Wehrmacht im Mai 1943 in der Militäerärztlichen Akademie in Berlin einen Bericht über die Experimente in Buchenwald. (NO-923, Ankl. Bew. 436, R. 2063). Handloser war bei dieser Tagung anwesend. (Handloser, R. 2943). Der Bericht selbst, den Handloser möglicherweise nicht persönlich gehört hat, wurde vor der Abteilung der Hygieniker gegeben, deren Vorsitz

Generalarzt Schreiber von der Heeres-Sanitätsinspektion fuhrte, ein Untergeordneter Handloser. Der Angeklagte Rose hoerte Dings Vortrag und er erhob Einwendungen gegen die Art der Experimente in Buchenwald. (Rose, R. 6166). Ein Zeuge fuer den Angeklagten Rose ging soweit, dass er aussagte, man muesste aus dem, was Rose sagte, den Schluss ziehen, dass er diese Experimente als Mord ansah. (Hoering, R. 6073). Er sagte, dass Insassen von Konzentrationslagern bei diesen Experimenten verwendet wurden. (Hoering, R. 6074). Es ist nicht anzunehmen, dass Handloser nicht von Schreiber ueber diese entliebsamen Vorgaenge bei der Hygieniker-Tagung unterrichtet wurde. Man muss sich vor Augen halten, dass Handloser bei derselben Tagung der beratenden Aerzte den Bericht ueber die von Gebhardt, Fischer und Oberhaeuser im Konzentrationslager Ravensbrueck vorgenommenen Sulfonamid-Experimente hoerte.

Die Typhusexperimente waren nicht die einzige Beruehrung, die der Angeklagte Handloser mit der Versuchsstation in Buchenwald hatte. Am 5. Januar 1943 sandten die Behringwerke in Marburg einen Brief an Arugowsky, in dem sie erwahnten, dass sie ihnen von Schreiber mitgeteilt worden, dass jede Lieferung von Gelbfieber-Impfstoff an menschlichen Versuchspersonen ausprobiert werden sollte, bevor sie an das Heer abgeliefert wird. Der Brief stellte ausdruecklich fest, "Oberstabsarzt Dr. Schreiber sagte uns, dass in Zukunft Versuche an Menschen durch Ihr Buero vorgenommen werden. Wir werden uns deshalb erlauben, Ihnen in gewissen Abstaenden Proben der verschiedenen Herstellungsreihen zu schicken. Wir bitten Sie um Auskunft, ob wir die zukuenftigen Herstellungsreihen auch an Dr. Hoven in Buchenwald schicken sollen." (NO-1305, Ankl. Bew. 469, R. 5426). Wie kommt es, dass Schreiber so unterrichtet wurde, dass er die Behringwerke anweisen konnte, den Gelbfieber-Impfstoff durch Arugowsky in Buchenwald an menschlichen Versuchspersonen ausprobieren zu lassen? Die offensichtliche Antwort darauf ist, dass leitende Persoenlichkeiten der Heeres-

Sanitaetsinspektion einschliesslich des Angeklagten Handloser schon vor dem 5. Januar 1943 von den Typhusexperimenten in Buchenwald wussten und sich daran beteiligten. Der Eintrag in dem Dingschen Tagebuch unter dem Datum 19. Januar 1943 bezieht sich auf diese Gelbfieber-Impfstoffversuche. Die von den Behringwerken in Marburg, vom Robert-Koch-Institut und dem Institut fuer Typhus- und Virusforschung des OKH in Krakau erzeugten Impfstoffe, wurden alle ausprobiert. Ein lebender Virus wurde bei diesem Impfstoff verwandt und der Eintrag besagt, dass jede Impfstoff-Herstellungsreihe an 5 Personen ausprobiert wurde. Eine grosse Anzahl von Insassen wurde zwischen dem 13. Januar und 17. Mai 1943 geimpft. Die Erzeugung von Gelbfieber-Impfstoff wurde dann mit Aussicht auf die militaerische Lage eingestellt. Die Resultate der Gelbfieber-Impfstoffversuche wurden in doppelter Ausfertigung an den Angeklagten Brugowsky und an Dr. Schmidt von der Heeres-Sanitaetsinspektion geschickt. (NO-265, Ankl. Bew. 237, R. 1146-7). Schmidt war der, der Heeres-sanitaetsinspektion beigegebene Hygieniker und arbeitete unter Handloser bis August 1944. (Handloser, R. 3059). Er sagte aus, dass er nichts von diesen Impfstoffversuchen wusste, obwohl er waehrend ihrer Vornahme in Buchenwald war. (R. 3184).

Wie fruher erwahnt, gab Handloser zu, dass er frueh im Jahre 1943 mit dem Angeklagten Brugowsky eine Besprechung hatte, betreffs Kombinationsimpfstoffe gegen Diarrhoe, Unterleibstyphus, Cholera usw. (Handloser, R. 3064). Es steht ausser Zweifel, dass diese Besprechung der Grund fuer die in grossem Umfang an 45 Insassen des Konzentrationslagers Buchenwald zwischen dem 24. Maerz und 20. April 1943 vorgenommenen Experimente war, wie sie im Dingschen Tagebuch beschrieben sind. Jede Person wurde an 8 verschiedenen Tagen innerhalb 4 Wochen gegen Pocken, Typhus, Paratyphus A und B, Cholera und Diphtherie geimpft. In Verbindung mit den Paratyphus-

Dampfstoffen A und B muss bemerkt werden, dass der Zeuge Kogon aussagte, dass Gefangenen Paratyphusbazillen in Kartoffelsalat gegeben wurden. Er sagte auch aus, dass Experimente in Buchenwald mit anderen Krankheiten als Typhus Todesfalle zur Folge hatten, obgleich verhältnismässig weniger. (Kogon, R. 1182-3).

Andere Einträge im Dingschen Tagebuch zeigen einen engen Zusammenhang zwischen der Heeres-Sanitaetsinspektion unter Handloser und den Experimenten in Buchenwald. Verschiedene Einträge vom 21. Dezember 1943 bis 16. Juni 1944 beweisen, dass altes Blutplasma von Ding im Auftrag der militaerärztlichen Akademie in Berlin, die Handloser unterstand, an Konzentrationslagerhäftlingen in Buchenwald ausprobiert wurde. Kogon sagte aus, dass Buchenwald-Insassen bei diesen Experimenten verwandt wurden und einige der Versuchspersonen starben, wahrscheinlich als Folge der Kombination des Schocks, durch die Transfusion des alten Blutplasmas und ihrer schlechten körperlichen Verfassung. (R. 1190-1).

Typhusexperimente wurden auch an Insassen des Konzentrationslagers Natzweiler durch Dr. Eugene Haagen, beratender Hygieniker der Luftwaffe, Luftflotte Reich, ausgeführt. (Siehe Schriftsatz der Anklagebehörde betreffs Koso). Das Oberkommando der Wehrmacht, bei der Handloser Chef des Sanitaetswesens war, erhielt Berichte ueber diese Experimente (Eyer, R. 1765). In diesem Zusammenhang wird erneut auf Schroeders Feststellung verwiesen, dass Handloser ueber medizinische Versuche, die von der Luftwaffe ausgeführt wurden, informiert war. (NO-449, Ankl. Bew. 130, R. 471). Ein Brief von Kahnt, Stabschef von Schroeder, vom 29. August 1944 datiert und an Haagen gerichtet, beweist, dass Handloser auf die von Haagen ausgeführten Forschungsarbeiten aufmerksam gemacht wurde. Haagen hatte

hinsichtlich eines verdünnten, nicht virulenten Typhusimpfstoffes Forschungsarbeit geleistet mit dem Ziel, an der Universität Strassburg eine Fabrikation ins Leben zu rufen. Kahnt teilte Haagen mit, dass "eine Entscheidung hinsichtlich der Errichtung einer Impfstoff-Fabrik nicht gefällt werden kann, da der Chef des Wehrmachtsanitätswesens, der allein fuer die Beschaffung von Impfstoffen zuständig ist, sich zu dieser Angelegenheit noch nicht geäußert hat."

(NO-131, Ankl. Bew. 309, R. 1404; siehe auch NO-306, Ankl. Bew. 296, R. 1387).

Haagens Typhus-Forschungsarbeit wurde bei einer Tagung des Amtes fuer Wissenschaft und Forschung unter dem Angeklagten Rostock im August 1944, die von Mitgliedern des Reichsforschungsrats und der Wehrmacht besucht wurde, als "dringlich" klassifiziert. Durchschlage eines Briefes, der die verschiedenen Forschungsauftraege aufzählte, die bei dieser Tagung als "dringlich" klassifiziert wurden, wurden an die verschiedenen medizinischen Zweige der Wehrmacht geschickt (NO-692, Ankl. Bew. 457, R. 3408; Rostock, R. 3409; siehe auch die eidesstattliche Aussage Rudolf Brandt, NO-370, Ankl. Bew. 294, R. 1385).

Unter diesen Umständen muss der Schluss gezogen werden, dass der angeklagte Handloser von den verbrecherischen Experimenten, die von Haagen vorgenommen wurden, unterrichtet war.

B. Kaelte-Experimente (Anklageschrift, Ziffer 6 (B))

Der verbrecherische Charakter der im Konzentrationslager Dachau vorgenommenen Kaelte-Experimente ist im einzelnen im Schriftsatz der Anklagebehörde betreffs Sievers geschildert. Diese Experimente bildeten den Gegenstand zweier mündlicher Berichte Holzloehners, der die Experimente mit Rascher und Finke durchführte. Beide Berichte wurden vor einer grossen Gruppe von Militärsärzten vorlesen. Der erste Anlass war bei einer Tagung in Nürnberg ueber Kaelteprobleme, die am 26. und 27. Oktober 1942 stattfand. Die Tagung wurde von der Luftwaffe einberufen, aber von Vertretern aller Zweige der Wehrmacht besucht, einschliesslich Schreiber, einer der engsten Mitarbeiter Handlosers in der Heeres-Sanitätsinspektion, Graemer von der gebirgsärztlichen Schule des Heeres in St. Johann, und mehreren Offizieren der Militärsärztlichen Akademie. Aus dem veröffentlichten Bericht dieser Tagung geht hervor, dass Holzloehner eine sehr eins einzelne gehende Beschreibung von Kaeltewirkungen auf Menschen gab. (NO-401, Ankl. Bew. 93, R. 309). Aus dem Bericht geht einwandfrei hervor, und besonders im Hinblick auf die nachträgliche Feststellung von Rascher, dass Experimente beschrieben wurden und nicht Beobachtungen, die bei Rettung aus Seenot gemacht wurden. Flieger in Not werden nicht im Ozean belassen, damit man ihre Temperaturen thermo-elektrisch aufzeichnen kann. Man braucht sich jedoch nicht in Spekulationen darüber zu ergehen, da der Leuge Lutz aussagte, dass Holzloehners Bericht eine Sensation bei der Tagung hervorrief, da klar zum Ausdruck kam, dass Konzentrationslagerhäftlinge als Versuchspersonen benutzt wurden und einige der Opfer starben. (R. 272). Rose stellte fest, dass diesem Vortrag kein Beifall gespendet wurde und Holzloehner wegen seiner Teilnahme an den Experimenten sehr beunruhigt war. (R. 6470).

Dr. Graemer von der gebirgsärztlichen Schule des Heeres, die Handloser unterstand, war ueber die Kaelte-Experimente so begeistert, dass er

hascher um Erlaubnis bat, die tatsächlichen Versuche zu sehen und mit ihm an Trocken-Kaelte-Versuchen zusammenzuarbeiten. (NO-319, Ankl. Bew. 96, R. 328; 1579-PS, Ankl. Bew. 97, R. 329).

Dass Schreiber Handloser von den Kaelte-Experimenten in Kenntnis setzte, wird durch die Tatsache bewiesen, dass Holzloehner eingeladen wurde, bei der zweiten Tagung der beratenden Aerzte der Wehrmacht, die in der militaeraerztlichen Akademie in Berlin vom 30. November bis zum 3. Dezember 1942 stattfand, einen Vortrag zu halten. (NO-922, Ankl. Bew. 435, R. 2059). Das wehrmachts-Sanitaetswesen war infolge des katastrophalen Winters 1941/42 stark an Kaelteproblemen interessiert. (Handloser, R. 3028-30). Aus dem Bericht ueber diese Tagung geht hervor, dass Handloser sich zu den Vortraegen ueber Kaelte aeusserte und er gibt zu, Holzloehners Vortrag gehoert zu haben. (R. 3033, 3096). Die herausgegebenen medizinischen Richtlinien sehen rapide Erwaermung durch ein heisses Bad vor als Behandlungsmethode fuer Schock infolge laengeren der Kaelte ausgesetztseins. (Handloser, R. 3031). Es ist offensichtlich, dass eine Richtlinie, die so sehr von dem ueblichen Brauch des langsamen Erwaermens abweicht (Handloser, R. 3030), nicht ohne sorgfaeltige Untersuchung von Holzloehners Werk durch die verantwortlichen Sanitaetsoffiziere, welche Handloser unterstanden, ausgegeben wurde.

C. Sulfonamid-Experimente (Anklageschrift Ziffer 6 (E))

Hinsichtlich der Beschreibung und des verbrecherischen Charakters dieser Experimente kann auf den Schriftsatz der Anklagebehoerde betreffs Gebhardt verwiesen werden.

Der vorlaeufige Bericht Gebhardts ueber die ersten Sulfonamid-Experimente bezeugt das Interesse der Heeres-Sanitaetsinspektion an dem Forschungsgegenstand. Ein Absatz des Berichtes sagt, dass:

"Zu der nun anlaufenden zweiten Versuchsreihe wurde die Drei-Teilung beibehalten. In jeder Gruppe wurden drei Haeftlinge geimpft. Eine Person blieb als Kontrolle unbehandelt, die zweite wurde wie bisher mit Catoxyn versetzt, bei der dritten wurde der Marfanilprontalbinpuder der I.G.-Farben verwandt, da

dieser von der Heeres-Sanitaetsinspektion
dringend empfohlen wurde.
(NO-2734, Ankl.Bew. 473, R.5622).

Ein vollstaendiger Bericht ueber die an Konzentrationslagerinsassen
im Ravensbruecker Konzentrationslager ausgefuehrten Sulfonamid-Versuche
wurde bei der, vom 18. bis 19 Mai 1943 in der Militaerärztlichen Aka-
demie in Berlin abgehaltenen 3. Tagung der beratenden Aerzte erstattet.
Handloser war es, der die Einladungen zu den Tagungen der beratenden
Aerzte ergehen liess, den Vorsitz bei diesen Versammlungen fuhrte,
die Auswahl der Redner und Themen ueberwachte (Handloser R.3009). Die
Militaerärztliche Akademie stand unter seinem Befehl. Gebhardt bezugte,
dass er darauf bestand, auf der Tagung im Mai 1943 einen vollkommenen Be-
richt ueber diese Experimente zu erstatten, dassmit der, fuer das Programm
der Tagung verantwortlichen Person der Inhalt des Vortrags lebhaft dis-
kutiert wurde, dass dies entweder Schreiber, oder der Angeklagte Rostock
war, dass das Programm fuer die Tagung seinen Vortrag unter dem Titel
"Sonderversuche" auffuehrte, dass dies andeutete er werde versuchen, etwas
Aussergewoehnliches zu zeigen, und dass der gesamte Gegenstand, entweder
mit Schreiber oder mit Rostock waehrend der Vorbereitungen fuer die Tagung
im Mai 1943 ausgiebig besprochen wurde (R. 4103-06). Dauernd wurde ueber
die Versuche zwischen Gebhardt, Grawitz und Schreiber oder Rostock korrespon-
diert. Grawitz hatte einen vollstaendigen Bericht ueber die Versuche, als
er mit Schreiber oder Rostock verhandelte. (Gebhardt, R.4107). Schreiber
sagte, er erhielt die Information ueber die Versuche auf dem Dienstweg.
(Gebhardt R. 4108). Ob Gebhardt die Versuche und den auf der Tagung im
Mai 1943 zu erstattenden Bericht mit Schreiber oder Rostock besprach,
braucht an dieser Stelle nicht ercoertert zu werden. Beide Maenner waren
dem Angeklagten Handloser unterstellt und die Tagung bedurfte seiner Ge-
nehmigung. Gebhardt bezugte in vollkommen klarer Weise, dass er gegen
jede Tarnung, und

bestrebt gewesen sei, das gesamte Thema dieser Versuche ans Tageslicht zu bringen.

Handloser gibt zu, dass er bei dem von Gebhardt und Fischer gehaltenen Vortrag anwesend war. (R. 2943). Gebhardt bezeugte, dass er in seiner Einleitung zu dem Vortrag ausdruecklich erklarte, dass die Versuche an Menschen ausgefuehrt worden seien. (R. 4109). Gebhardt erinnert sich nicht bestimmt daran, ob er erwachte, dass die Versuchspersonen Konzentrationslagerinsassen seien. Der Angeklagte Fischer hat erklart, dass dies klar gemacht wurde. (NO-472, Ankl. Bew. 234, R. 941; vgl. Fischer, R. 4365). Es wird nicht bestritten, dass die klinischen Einzelheiten der Versuche in grosser Ausfuhrlichkeit dargelegt wurden. Der Versammlung wurde gesagt, dass an 75 Personen Versuche vorgenommen wurden, dass die Ansteckungen kuenstlich erzeugt worden waren, dass verschiedene Medikamente bei der Behandlung der Infektionen gebraucht wurden, dass chirurgische Behandlung angewandt wurde, und dass 3 Personen starben. (Gebhardt, R. 4109-10). Jede Einzelheit wurde erklart.

Der Angeklagte Fischer sagte in seiner eidesstattlichen Erklrung aus, dass ihm bei Beginn der Sulfonamid-Versuche gesagt wurde, sie wuerden auf Anordnung des Leiters des Wehrmchts-Sanitaetswesens und des Leiters des Staatlichen Gesundheitswesens auf direkten Befehl Hitlers ausgefuehrt. (NO-472, Ankl. Bew. 234, R. 941). Fischer widerrief diese Behauptung auf dem Zeugenstand, aber unter den vorliegenden Umstaenden ist es klar, dass seine Gestaendnisse vor der Anklageerhebung betrchtlich ins Gewicht fallen. Schon der Zweck, dem die Experimente dienen sollten, naemlich wirksame Heilmittel gegen Wundinfektion zu finden, bekrftigt seine Aussagen. Wen in Deutschland haetten diese Versuche mehr angehen koennen als den Leiter des Sanitaetswesens der Wehrmacht? Ausserdem wurden die Resultate der Versuche - so gering sie auch waren - vom Sanitaetswesen der Wehrmacht prompt in Anwendung gebracht. (Handloser, R. 3050).

Die Erfolge der Sulfonamid-Versuche wurden in dem Berichte der dritten Tagung der beratenden Aerzte zusammengefasst und aerztliche Richtlinien wurden auf diesen Versuchen begruendet und im gesamten Sanitätswesen der Wehrmacht verteilt. (NO-923, Ankl. Bew. 436, R. 2063; Gebhardt Bew. 10, R. 4112-18). Man muss sich vor Augen halten, dass dieser Bericht selbst klar ausdrueckt, dass die Versuchspersonen kuenstlich infiziert wurden.

Gebhardt bestand waehrend seines direkten Verhoers darauf, dass einer der Zwecke seines freimaetigen Berichtes auf der Tagung der beratenden Aerzte war, die Frage der Berechtigung zu diesen Experimenten zur Eroerterung zu stellen. Er bezeugte: "Ich bestand darauf, dass ein abgeschlossener Versuch nur dann die ihm zugeschriebene Berechtigung haben wuerde, wenn er von einer klaren Beschreibung ueber seinen Verlauf begleitet waere. Man wuerde es einer bis dahin mit der Angelegenheit ueberhaupt noch nicht befassten Stelle vorlegen, das Gesamtbild zusammen mit der Frage: Sind die Schlussfolgerungen, die ich jetzt ziehe, und ist das, was ich fuer tausende von SS-Maennern einfuehre -- ist das richtig oder ist das falsch? In diesem Zusammenhang hatte ich natuerlich auch den persoenlichen Wunsch, dass mein Name von Sachverstaendigen gedeckt wuerde, und dass der Staat gezwungen wuerde, den Notstand, in dem ich mich befand, oeffentlich anzuerkennen." (R. 4115). Gebhardt erlebte keine Enttauschung; seine Versuche empfiengen zum mindesten stillschweigende Billigung. Handloser hoerte den Vortrag, erhob aber keine Einwendungen, stellte keine Untersuchung an und griff nicht ein. Haette er seine Pflicht zur Untersuchung erfuehlt, so haette er die letzte Versuchsreihe in Ravensbrueck, die noch im August 1943 ausgefuehrt wurde, verhindern koennen. Diese Versuchsreihe wurde an 6 polnischen Frauen ausgefuehrt, die zwangsweise im schmutzigen Bunker des Konzentrationslagers Ravensbrueck operiert wurden. (NO-864, Ankl. Bew. 229, R. 923). Waere er den Sulfonamid-Versuchen nachgegangen, so waeren die Knochen-Muskel- und Nerven-Versuche (Anklageschrift Ziffer 6 (F)), die von denselben Personen am gleichen Orte ausgefuehrt wurden, ans Tageslicht gebracht worden. Aber Handloser tat nichts. Tatsache ist, er hatte gegen die Vornahme von Versuchen an Konzentrationslagerinsassen ohne deren Einwilligung nichts einzuwenden. Er kannte und billigte diese

Politik schon in der ersten Haelfte des Jahres 1942, als er an der Einfuehrung von Versuchen mit Fleckfieber-Impfstoffen im Konzentrationslager Buchenwald teilnahm. Und im Dezember 1942 hoerte er bei der zweiten Tagung der beratenden Aerzte den Bericht Holzloehners ueber Kaelteversuche in Dachau. Es kann nur der Schluss gezogen werden, dass Handloser, weit davon entfernt gegen solche Versuche etwas einzuwenden, sie aktiv unterstuetzte.

D. Epidemische Gelbsucht (Anklageschrift, Ziffer 6 H)

Im Anschluss an den Angriff auf Russland wurde die epidemische Gelbsucht (Hepatitis epidemica) eine in der deutschen Wehrmacht weitverbreitete Krankheit. (Gutzeit, R. 2707). In einigen Einheiten wurden Ausfaelle bis zu 60 % durch diese Krankheit berichtet. (NO-010, Ankl. Bew. 187, R. 735). Daher wurden intensive Anstrengungen gemacht, um die Ursachen der epidemischen Gelbsucht und Impfstoffe dagegen zu entdecken. Dohmen und Gutzeit von der Sanitaetsinspektion des Heeres und Haagen, vom Sanitaetsdienst der Luftwaffe, gehoerten zu den Aerzten, die an dieser Sache arbeiteten.

Dohmen und Gutzeit waren der Militaerarztlichen Akademie angeschlossenen und Schreiber unmittelbar unterstellt. (Gutzeit, R. 2752). Die militaerarztliche Akademie war natuerlich Handloser, als dem Sanitaetsinspekteur der Wehrmacht, unterstellt. (Gutzeit, R. 2740). Gutzeit war auch beratender Internist bei Handloser. (Gutzeit, R. 2700). Dohmen war einer der ersten, der einen Virus, der der Erreger der Gelbsucht sein sollte, isolierte. Erreicht wurde dies durch Impfen von Tieren mit Keimen, die von an dieser Krankheit leidenden Menschen genommen wurden. (Gutzeit, R. 2695). Es bestand jedoch noch eine betrachtliche Meinungsverschiedenheit, ob Gelbsucht durch Bakterien oder durch einen Virus verursacht werde. (Gutzeit, R. 3045). Am 1. Juni 1943 bat Reichsarzt der SS, Grawitz, Himmler, dass er Dohmen Konzentrationslagerinsassen zwecks Infektion mit seinem Virus zur Verfuegung stelle. Er erklarte, dass Todesfaelle unter den

Versuchspersonen zu erwarten seien. (NO-010, Ankl. Bew. 187, R. 735).

Es war nicht angegeben, ob die Todesfalle herbeigefuehrt werden sollten, um Obduktionen auszufuehren (wie in dem Fall der Hoehenversuche), oder ob sie durch die Krankheit selbst zu erwarten seien (wie bei den Fleckfieberversuchen).

Himmler gab seine Einwilligung zur Verwendung von 8 polnischen Juden, die im Konzentrationslager Auschwitz zum Tode verurteilt worden waren, und dazu, dass Dohmen die Versuche leite. (NO-011, Ankl. Bew. 188, R. 737). Die Versuche wurden von Dohmen im Konzentrationslager Sachsenhausen ausgefuehrt, und nach der eidesstattlichen Erklaerung des Angeklagten Rudolf Brandt, starben einige der Versuchspersonen an den Folgen. (NO-371, Ankl. Bew. 186, R. 733). Sogar der Entlastungszeuge Gutzeit, der mit Dohmen eng zusammenarbeitete, gibt zu, dass Dohmen in Sachsenhausen arbeitete, behauptete aber, dass dies lediglich eine List war, um die Abgabe des Gelbsuchtvirus an Grawitz zu vermeiden, und dass in Wirklichkeit keine Infizierungsversuche angestellt wurden. (Gutzeit, R. 2729). Gutzeit erklarte jedoch nicht, warum Dohmen, der in keiner Weise Grawitz unterstellt war, sich auf eine so laecherliche wissenschaftliche "Dummheit" haette einlassen sollen. (Gutzeit, R. 2758).

Bei der Abwaegung der Glaubwuerdigkeit der Zeugenaussage von Gutzeit sollte die Tatsache in Erwaegung gezogen werden, dass er selbst Mitglied der SS und mit Dohmens Arbeit eng verbunden war. (Gutzeit, R. 2760).

Im Juni 1944 wurde von Handloser zum Zwecke der Gleichrichtung der Gelbsuchtforschung eine Sachverstaendigen-Konferenz einberufen. Diese Konferenz fand in Breslau statt, und Schreiber fuehrte den Vorsitz. (Gutzeit, R. 2752). Handloser, Gutzeit und Haagen, ein beratender Hygieniker der Luftflotte Reich, waren alle bei dieser Konferenz anwesend. (Gutzeit, R. 2717). Schreiber ernannte Aerztegruppen fuer die gemeinsame Arbeit.

an Selbstsuchproblemen. Dohmen, Gutzeit und Haagen wurden einer dieser Gruppen zugewiesen. (Gutzeit, R.2717). Am 12.Juni 1944 ersuchte Haagen selbst, Schreiber ihn Dohmen zur Zusammenarbeit mit ihm zuzuweisen. Generalarzt Schreiber war damals Kommandeur der Militärärztlichen Akademie. (NO-299, Ankl.Bow.190, R.739). Schreiber erfüllte seine Bitte. (NO-300, Ankl.Bow. 191, R.740).

Am 24.Juni 1944 schrieb Gutzeit an Haagen, dass auch er Schreiber bitten werde, Dohmen, Haagen zuzuweisen. Er fügte hinzu, dass er Vorbereitungen fuer Experimente an Menschen traefe, und er wuensche, dass Haagen ihn mit seinem Virusmaterial beliebere. (NO-124, Ankl. Bow. 193, R. 743). Auf Gutzeits Brief antwortete Haagen am 27.Juni 1944, er freue sich darueber, dass Dohmen ihm ab 15.Juli zugewiesen werde. Er erklarte ferner, dass er mit Kalk, Buetechnor und Zuchschwert, alles Luftwaffenoffiziere, an Selbstsuchproblemen arbeite und dass er mit Kalk Anstalten getroffen habe, um mit seinem Material Menschenversuche auszufuehren (NO-125, Ankl.Bow.194, R.744).

Unter demselben Datum schrieb Haagen an seinen Mitarbeiter Kalk, der dem Stabe des Angeklagten Schroeder zugewiesen war, das folgende: " In der Anlage uebersende ich Ihnen die Abschrift eines Briefes, von Gutzeit und meine Antwort. Wir muessen also jetzt baldmoeglichst daran gehen, die Humanversuche durchzufuehren. Diese muessen allerdings am besten hier in Strassburg oder in der Naeho stattfinden.

Koennten Sie von Ihrer Dienststelle aus, die noetigen Schritte unternehmen, dass wir die erforderlichen Versuchspersonen bekommen ?

Ich weiss nicht, was fuer Maenner Gutzeit zur Verfuegung hat, Soldaten oder anderes Volk ? " (NO-126, Ankl. Bow. 195, R.745).

Die Bemerkung ueber "anderes Volk" ist ein offensichtlicher Hinweis auf Konzentrationslagerinsassen, an denen Haagen schon seit langem mit virulenten Flockfiebervirus experimentiert hatte, waehrend der Hinweis auf "Strassburg oder in der Naeho", auf

das Konzentrationslager Natzweiler hindeutet. (Siehe oben ueber Fleckfieberversuche). Herr Kalk und sein Chef, der Angeklagte Schroeder, wussten genau, wie man sich Konzentrationslagerinsassen fuer aerztliche Versuche verschaffe, denn nur einige Wochen vorher hatte Schroeder selbst von Himmler Lagerinsassen fuer die Moerwasserexperimente verlangt. (NO-185, Ankl. Bow. 134 R. 483).

Die Akten zeigen, dass Dohman in der Tat auf direkten Befehl Schreibers nach Strassburg ging, um mit Haagen zusammen zu arbeiten. (Gutzeit, R. 2752). Handloser wurde von dieser Zusammenarbeit Dohmans und Haagens unterrichtet. (Gutzeit R. 2757).

Eine weitere Versuchsreihe fuer Gelbsuchterperimente, mit denen Handloser in Verbindung stand, war geplant. Am 29. Januar 1945 schrieb Brugowsky an Grawitz wie folgt:

"Der Direktor des Hygienischen Institutes der Universitaet Leipzig, SS Hauptsturmfuehrer Professor Dr. Drosel, hat aus Hepatitis-Kranken ein Virus gezuechtet und konnte es in zahlreichen Tierpassagen uebertragen.

Zum Beweis, dass es sich um das wirksame Virus der Hepatitis epidemica handelt, sind Versuche am Menschen erforderlich. Der Bevollmaechtigte fuer Seuchenforschung im Reichsforschungsrat wendet sich daher mit der Bitte um Anstellung dieser Versuche an mich.

Ich bitte beim Reichsfuehrer SS die Genehmigung zu erwirken, die notwendigen Uebertragungsversuche an 20 geeigneten Haeftlingen, welche bisher noch nicht an Hepatitis epidemica erkrankt waren in der Fleckfieber-Versuchsstation des KL Buchenwald durchfuehren zu koennen. (NO-1303, Ankl. Bow. 467, R. 5400).

Der Bevollmaechtigte fuer Seuchenforschung im Reichsforschungsrat, der diese Experimente an Konzentrationslagerinsassen verlangte, war Generalarzt Schreiber, gleichzeitig Kommandeur der Lehrgruppe C der Militaermedizinischen Akademie unter Handloser. (Brugowsky, R. 5402). Schreiber war von Handloser gerade dazu ausgesprochen worden, die Gelbsuchtforschung zu koordinieren und die Versammlung in

Breslau wurde zu diesem Zweck einberufen.

Im Hinblick auf das oben angeführte Beweismaterial kann nur der Schluss gezogen werden, dass die Golsuchtversuche von Untergebenen des Angeklagten Handloser mit seinem Wissen und seiner Einwilligung ausgeführt wurden.

E. Andere Experimente

1. Gasexperimente (Anklageschrift, Ziffer 6 (D))

Vom Winter 1942 bis zum Sommer 1944 wurden im Konzentrationslager Natzweiler unter der Aufsicht von Professor Hirt von der Universität Strassburg, Versuche angestellt zur Feststellung der wirksamsten Behandlung der durch Senfgas (Lost) verursachten Wunden. Zum Zwecke einer Darstellung des verbrecherischen Charakters dieser Versuche kann auf den Schriftsatz der Anklagebehörde betreffs Sievers hingewiesen werden.

Im Juni 1942 schrieb Hirt einen Bericht über seine Versuche der Behandlung von Gasverwundungen mit Vitaminen (NO-097, Ankl.Bew. 260, R. 1022). Diese Versuche wurden auf Befehl der Wehrmacht durchgeführt. Er erklärte, er habe wegen der Offensive gegen Frankreich, Versuche an Menschen nicht vornehmen können. Einen Bericht über die Experimente legte er seinem "Generalarzt, der ihn nach Berlin weitergab", vor. In diesem Bericht schlug er direkte Experimente mit Gas an Menschen vor, um die Schutzwirkung der Vitaminbehandlung festzustellen (siehe daselbst).

Ärzte der Luftwaffe arbeiteten mit Hirt in den darauffolgenden Versuchen an Konzentrationslagerinsassen in Natzweiler zusammen. (Hell, R. 1059, 1061). Oberarzt Wimmer, ein Arzt im Stab der Luftwaffe, war der Hauptmitarbeiter Hirts. Er wurde Hirt für diese "kriegswichtigen" Gasversuche von der aerztlichen Lehrabteilung VII. der Luftwaffe zur Verfügung gestellt. (NO-195, Ankl.Bew. 266, R. 1033).

Handloser bezeugte, dass er an den medizinischen Problemen im Zusammenhang mit chemischen Kampfstoffen sehr interessiert war. (R.3038). Der beratende Facharzt der Hoeressanitätsinspektion in diesen Dingen war Oberstarzt Wirth, den Handloser seit Jahren kannte. Wirth war der Militäraerztlichen Akademie zugeweiht. (Handloser R.3040). Die verbrocherischen Versuche von Professor Bickenbach von der Universität Strassburg mit Phosgenas, die in dem Schriftsatz betreffs Karl Brandt beschrieben sind, wurden mit Wirths Wissen ausgeführt. Im zweiten Bericht uober diese Versuche wird festgestellt, dass Wirth eine Inspektion des Bickenbachschen Institutes vornahm. (NO-1852, Ankl.Bew.456, R.3406).

Dass Wirth, Handlosers Untergebener, im Verfolg des Führererlasses mit Karl Brandt an der Gasforschung zusammenarbeitete, wird weiterhin durch die Tatsache erwiesen, dass Wirth Entgiftungsversuche an mit Lostgas vergiftetem Wasser anregte. Der Bericht uober diese an Insassen des Neuengammer Konzentrationslagers ausgeführten Versuche stellt fest: "Eine dritte Versuchsreihe wurde entsprechend dem bei der Konferenz mit Reichskommissar Dr. Brandt am 4. Dezember 1944 von Oberstarzt Dr. Wirth gemachten Vorschlag mit einem Kampfstoff der Lostgruppe, dem Erstickungsgas Lost, ausgeführt." (NO-154, Ankl.Bew.446, R.2638). Die Bickenbachschen Phosgen-Versuche unter der Leitung Brandts waren nur wenige Monate frueher abgeschlossen worden. Es ist ganz klar, dass Wirth keine Versuche an Konzentrationslagerinsassen vorgeschlagen haette, wenn es nicht eine allgemeine militaeraerztliche Praxis gewesen waere.

(2) Malaria- und Moorwasserversuche. (Anklageschrift, Ziffer 6 (C) und (G)).

Die Anklagebehoerde beruft sich bei der Beschuldigung der Verantwortlichkeit fuer die Malaria- und Moorwasserversuche in der Hauptsache auf die Stellung des Angeklagten Handloser.

Die Malariaexperimente dauerten von Februar 1942 bis zum Fruehjahr des Jahres 1945, und Experimente wurden an ueber 1000 Insassen vorgenommen. (Siehe den Schriftsatz betreffs Rose). Dass eine solch grosse Versuchsreihe in hoeheren Kreisen der Medizin unbeachtet geblieben waere, ist nicht anzunehmen. Was die Meerwasserversuche anlangt, so wird wiederum auf die Aussage Schroeders hingewiesen, dass Handloser ober aerztliche Forschung durch die Luftwaffe unterrichtet war. (NO-449, oben).

(3) Versuche ueber biologische Kriegsfuehrung.

Im Jahre 1943 wandte sich das Interesse militaerischer Kreise in Deutschland der biologischen Kriegsfuehrung zu. Der Angeklagte Blome wurde vom Reichsmarschall Goering mit der Aufgabe betraut, Forschungen auf diesem Gebiete anzustellen. (NO-675, Ankl.Bew.37, R.142). Ein besonderer Ausschuss zur Erforschung der die biologische Kriegsfuehrung betreffenden Dinge wurde unter dem Namen "Blitzarbeiter" gegruendet. Stabsarzt Professor Klieve, der Offizier in der Sanitaetsinspektion der Wehrmacht und Untergebener Handlosers war, war ein prominentes Mitglied dieses Ausschusses. (NO-1308, Ankl.Bew.325, R.1482; Handloser R.2961). Handloser konferierte mit Blome ueber biologische Kriegsfuehrung. (Handloser R.2965).

In einer Versammlung des "Blitzarbeiter"-Ausschusses am 4. September 1943, der u.a. Klieve beiwohnte, schlug Blome vor, dass Versuche an Menschen vorgenommen werden sollten, da nicht bekannt sei, unter welchen Bedingungen eingeatmete Aerosols oder zerstreute Troepfchen gewisser pathogener Keime Krankheiten bei Menschen erregten. (NO-3108, Ankl.Bew.325, R.1484). In einer Versammlung am 23. Februar 1944 betonte Blome wiederum die Notwendigkeit, Experimente an Menschen vorzunehmen, und berichtete, dass eine neue biologische Waffe studiert und geprueft werden solle. Feldmarschall Keitel hatte die Genehmigung zum Bau des Instituts gegeben und Himmler und Karl Brandt versicherten ihn ihrer Unterstuetzung. Blome erklarte auch,

dass Pest eine schwere Gefahr bedeuten koenne und dass es deshalb noetig sei, den Pest-Impfstoff in Menschenversuchen zu erproben. Die Wirkung maximaler Dosen verschiedener Gifte sollten in Menschenversuchen erprobt werden, (NO-1309, Ankl.Bew.326, R.1487). Der Internationale Militaergerichtshof traf in seinem Urteil die tatsaechliche Feststellung, dass Sowjet-Kriegsgefangene in aertzlichen Experimenten ueber biologische Kriegsfuehrung verwendet wurden, die in der Mehrzahl der Faelle toedlich verliefen. (Internationaler Militaergerichtshof, Prozess Nr.I, R.16891).

Dass Blome die vorgeschlagenen Experimente mit Gift an Menschen wirklich ausfuehrte, wird durch ein Fernschreiben von Sievers an Rudolf Brandt vom 18. August 1944 bewiesen. (NO-641, Ankl.Bew.327, R.1493). Dies Schriftstueck besagt, dass Blome wegen der Giftexperimente in Erwaelterung der Meldung vom 21. Juli Himmler Bericht zu erstatten wuenschte.

Handloser gibt zu, dass es seine Pflicht war, sich mit Vorbeugungsmassregeln im Falle eines biologischen Krieges zu befassen. (R.2962). Er war auch offensichtlich von den bedeutenden Arbeiten Blomes und seines Untergebenen Klieve auf diesem Gebiet unterrichtet. Reden ueber die noetigen Schutz- und Abwehrmassnahmen wurden auf der 4. Tagung der beratenden Aerzte der Wehrmacht in Hohenlychen gehalten. (NO-1309, Ankl.Bew.326, R.1491). Handloser wohnte dieser Tagung bei. (Handloser R.2940). In dem Bericht ueber das oben erwahnte Zusammentreffen Klieves mit Blome am 23. Februar 1944 wird weiter erklart;

"Auf Wunsch des Feldmarschalls Keitel soll die Armee keinen verantwortlichen Anteil an den Versuchen nehmen, da auch Versuche an Menschen ausgefuehrt werden."

Es ist aus dieser Erklaerung ersichtlich, dass Feldmarschall Keitel, der Chef des Oberkommandos der Wehrmacht, von den systematischen Versuchen an Konzentrationslagerinsassen unterrichtet war.

Angesichts dessen ist es nicht glaubhaft, dass Handloser als Chef des Sanitaetswesens der Wehrmacht und als unmittelbarer Untergebener Titels nicht sogar noch besser unterrichtet war.

(4) Versuche mit Gas-Oedem-Serum.

Ein weiterer Beweis dafuer, dass die Anstellung von Versuchen an Konzentrationslagerinsassen eine in dem Handloser unterstellten Militaersanitaetswesen uobliche und gebilligte Praxis war, wird in dem Beweismaterial ueber die Versuche in Verbindung mit dem Gas-Oedem-Serum gefunden.

Handloser bezeugte, dass das Gas-Oedem eine durch Infektion einer Wunde durch Bakterien erzeugte Krankheit ist. Die Sterblichkeit ist sehr hoch. Das Militaersanitaetswesen hatte ein Gas-Oedem-Serum, das zur Bekaempfung der Infektion verwandt wurde. Es wurde beobachtet, dass mit diesem Serum behandelte Soldaten manchmal nach anscheinender Wiederherstellung ploetzlich starben. Der Phenolgehalt des Serums wurde fuer die Ursache gehalten. Dieser ganze Komplex wurde von Professor Killion von der Sanitaetsinspektion der Wehrmacht, einem Untergebenen Handlosers, studiert. (Handloser R.3053).

Die eidesstattliche Erklaerung von Dr. Erwin Schuler, alias Ding, der die Typhusexperimente in Buchenwald leitete, erklaert, dass auf einer Konferenz in der Militaeraerztlichen Akademie Ende 1942 in Berlin, an der er teilnahm, die Todesfaelle bei der Anwendung des Gas-Oedem-Serums bei verwundeten Soldaten einer der Diskussionsgegenstaende war. Die von Schuler in dieser eidesstattlichen Erklaerung erwachte Versammlung ist zweifellos die 2. Tagung der beratenden Aerzte der Wehrmacht zwischen dem 30. November und 2. Dezember 1942. Die eidesstattliche Erklaerung stellt weiter fest, dass unter den Teilnehmern an der Diskussion ueber das Gasbrandserum Killion, General Schreiber, Mrugowsky und ein ihm unbekannter Sanitaetsoffizier waren. Killion i Mrugowsky erstatteten Berichte ueber Soldaten, die das Serum in grossen Mengen erhalten hatten und die Stunden spaeter, nachdem sie sich anscheinend

erholt hatten, plötzlich ohne sichtbaren Grund starben. Den Phenolgehalt des Serums wurde die toedliche Wirkung zugeschrieben. In Gegenwart Killions und Schreibers befahl Krugowsky Schuler, an der Ausfuehrung der Euthanasie an einem Konzentrationslagerinsassen mit Hilfe von Phenol teilzunehmen und das Resultat in allen Einzelheiten zu beschreiben. Schuler war spaeter Zeuge bei der Hinrichtung von 4 oder 5 Gefangenen durch den Angeklagten Hoven im Konzentrationslager Buchenwald. Befehlsgemaess berichtete Schuler seine Beobachtungen nach Berlin. (NO-257, Inkl.Bew.283, R.1091).

III. Schlussfolgerung.

Handloser war der hoechste Sanitaetsoffizier in Deutschland. Seine Macht erstreckte sich ueber das gesamte Sanitaetswesen der Wehrmacht einschliesslich der Waffen-SS.

Handloser nahm an der Konferenz vom 29. Dezember 1941 teil, als entschieden wurde, dass Fleckfieberexperimente in Buchenwald stattfinden sollten. Einer seiner Untergebenen besuchte am selben Tag eine Vorkonferenz ueber denselben Gegenstand. Sanitaetsoffiziere, die Handloser direkt unterstanden, waren von den Einzelheiten dieser Versuche unterrichtet - Eyer, Schmidt und Schreiber. Eyer empfing einen Bericht ueber die erste Versuchsreihe und besuchte spaeter, von Schmidt begleitet, die Versuchsstation. Mit Fleckfieber infizierte Laeuse und auch Impfstoffe wurden der Versuchsstation von einer Handloser direkt unterstellten Stelle geliefert. Ding berichtete in einer von Handloser einberufenen Versammlung der beratenden Aerzte ueber die Fleckfieberexperimente. Es wurde zum Ausdruck gebracht, dass die Experimente an Konzentrationslagerinsassen ausgefuehrt worden waren. Von einem der Aerzte wurde gegen die Experimente ein Einwand erhoben. Schreiber, ein hochgestellter Gehilfe Handlosers, fuehrte den Vorsitz bei der Versammlung, in welcher der Vortrag gehalten wurde. Er stand in Verbindung mit aehnlichen

von Hagen an Insassen des Konzentrationslagers Natzweiler ausgefuhrten Fleckfieberexperimenten.

Die Heeres-Sanitaetsinspektion unter Handloser benutzte die Einrichtungen der Buchenwalder Versuchsstation, um Gelbfieber-Impfstoffe zu lassen. Die Resultate dieser Versuche wurden an Dr. Schmidt geschickt. Kurze Zeit spaeter wurden auf Anregung Handlosers in Buchenwald kombinierte Impfstoffversuche ausgefuehrt. In den Jahren 1943 und 1944 wurde altes Blutplasma fuer die Militaerärztliche Akademie unter Handloser an Insassen des "Kleinen Lagers" in Buchenwald ausprobiert.

Die von Raschor und Holzloehner im Konzentrationslager Dachau geleiteten Kaelteexperimente waren Handloser bekannt; Graemer, ein Untergebener Handlosers, schlug eine Zusammenarbeit mit Raschor vor. Handloser, ebenso wie Schreiber, hoerte einen Bericht Holzloehners ueber diese Experimente. In den Leitsaetzen, die von Handloser unterstehenden Stellen erlassen wurden, wurde von den Ergebnissen dieser Versuche Gebrauch gemacht.

Handloser hoerte auf einer Versammlung, bei der er den Vorsitz fuehrte, einen Bericht ueber Gobhardts und Fischers Sulfonamid-Versuche. Der Bericht enthielt auch naechere Einzelheiten ueber kuenstliche Infizierung und Todesfaelle. Es wurde klar zum Ausdruck gebracht, dass Konzentrationslagerinsassen verwandt wurden. Versuche fanden nach dieser Versammlung statt.

Dohmen, ein Untergebener Handlosers, fuehrte Gelbsuchtexperimente an Insassen des Konzentrationslagers Sachsenhausen aus. Handloser stand auch mit aehnlichen Experimenten Haagens in Natzweiler und Dreßels in Buchenwald in Verbindung.

Wirth, ein Untergebener Handlosers, war ueber die Gasexperimente an russischen Kriegsgefangenen in Bickenbach bei Strassburg unterrichtet. Er besichtigte die Versuchsstation. Wirth schlug auch Karl Brandt Gasexperimente in Verbindung mit der Entseuchung von Wasser vor.

Handloser stand auch mit dem "Blitzarbeiter"-Ausschuss in Verbindung, der Experimente an Menschen mit Mikroben und Gift fuer die biologische Kriegsfuehrung befuehrtete. Und schliesslich leistete Schreiber, zusammen mit einem anderen Untergebenen Handlosers, Beihilfe bei Mordexperimenten mit Phenol in Verbindung mit dem Gas-Oedem-Serum.

Die Anklagebehoerde behauptet, dass das Beweismaterial ergibt, dass Handloser ein Haupttaeter, Beihelfer, Anstifter und Vorschubleistender war, seine Zustimmung gab zu und in Zusammenhang stand mit Plaenen und Unternehmungen, die die Vornahme aerztlicher Versuche an menschlichen Versuchsobjekten ohne ihre Zustimmung einschlossen, in deren Verlauf Mordtaten, Brutalitaeten, Grausamkeiten, Folterungen, Greuel-taten und andere unmenschliche Taten begangen wurden, und dass seine Schuld im Sinne der Anklagepunkte I, II und III der Anklageschrift festgestellt ist.

Ich, Fred Lax Nr. X046 207 bestaetige hiermit, dass ich durchaus vertraut mit der englischen und deutschen Sprache bin, und dass das Vorstehende eine wahrheitsgemaeue und richtige Uebersetzung des obigen Dokuments darstellt.

4 Juni 1947

Fred Lax
Nr. X046 207

M I L I T A R G E R I C H T S H O F N R . I

FALL NR. 1

ZUSAMMENFASSENDE SCHRIFTSATZ
DER VEREINIGTEN STAATEN VON AMERIKA
GEGEN
WALDEMAR HOVEN

James H. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

Nuernberg,
den 16. Juni 1947.

Fuer:

Telford Taylor
Brigadier General, U.S.A.,
Chief of Counsel for War Crimes



EINFUEHRUNG.

Unter Punkt I der Anklageschrift wird der Angeklagte Waldemar Hoven im wesentlichen beschuldigt, dass er sich mit anderen Personen im Verfolge eines gemeinsamen Vorhabens zu einer Verschwörung und Uebereinkunft zusammengefunden hat, um medizinische Experimente an Menschen ohne deren Zustimmung vorzunehmen; unter Punkt II und III (Kriegsverbrechen und Verbrechen gegen die Menschlichkeit), dass er Haupttäter, Teilnehmer, Anstifter, Vorschubleistender gewesen ist, seine Zustimmung gegeben und mit Plänen und Unternehmen in Verbindung gestanden hat, die die Durchführung medizinischer Experimente an Menschen ohne Zustimmung der Betroffenen und das sogenannte Euthanasie-Programm zum Gegenstand hatten; und unter Punkt IV, dass er nach dem 1. September 1939 ein Mitglied der SS war, einer vom Internationalen Militäergerichtshof fuer kriminell erklarten Organisation.

Dem Angeklagten Hoven wird besondere Verantwortlichkeit fuer die Fleckfieber- und andere Impfstoffversuche, wie sie in Ziffer 6 (J) der Anklageschrift beschrieben sind, zur Last gelegt und die Teilnahme am sogenannten Euthanasie-Programm, das in Ziffer 9 beschrieben ist. Es ist auch der Beweis dafuer erbracht worden, dass er an den Gas-Oedem-Serum-Experimenten teilgenommen hat.

I. STELLUNG UND VERANTWORTLICHKEIT

Der Angeklagte Hoven trat im Jahre 1934 der SS und 1937 der NSDAP bei. Bei Ausbruch des Krieges trat er in die Waffen-SS ein. In diesem Verband stieg er zum Rang eines Hauptsturmfuehrers auf. Nachdem er seine Grundausbildung in der Waffen-SS erhalten hatte, wurde Hoven Hilfssanitätschef im SS-Lazarett im Konzentrationslager Buchenwald und behielt diese Stellung bis 1941 bei. (NO-429, Ankl.Bew. 281, R.1078; NO-591, Ankl.Bew. 35, R. 140). Im Januar dieses Jahres wurde er zweiter Lagerarzt im Lagerlazarett (Hoven R. 9765) und mindestens schon im Juni 1942 Chefarzt (Hoven R. 9767). Er verblieb in dieser Stellung bis September 1943, als er auf Anordnung des SS-Polizeigerichtes Kassel verhaftet wurde (NO-429 und NO-591 oben). Hoven wurde wegen des Mords an einem

SS-Scharfuhrer verhaftet, der ein fuer Koch, dem Lagerkommandanten von Buchenwald, sehr gefaehrlicher Zeuge war. (Kogon R. 1183-4). Es ist Beweis dafuer vorhanden, dass Hoven schon vor Juni 1942 Chefarzt war, und zwar schon in Fruhjahr 1941. (Roemhild R. 1631). Ein Brief von Mennecke, datiert vom 25. November 1941, spricht von Hoven als dem Lagerarzt. (NO-977, Ankl.Bew. 412, R. 1746). In jedem Falle hatte Hoven schon vor seiner offiziellen Ernennung zum Lagerarzt entscheidenden Einfluss im Lagerlazarett gehabt. Der Zeuge Roemhild sagte aus, dass Hoven vom Sommer 1941 an "die entscheidende Rolle" im Lazarett spielte. (R. 1663).

Als Dr. Ding-Schuler (in der Folge Ding genannt) mit seinen kriminellen Fleckfieber- und anderen Impfstoff-Experimenten im Konzentrationslager Buchenwald anfangs 1942 begann, hatte Hoven waehrend der Abwesenheit von Ding die Aufsicht ueber die Experimentierstation. Am 9. Januar 1943 wurde diese Experimentierstation auf Anordnung des Angeklagten Genzken hin zur "Abteilung fuer Fleckfieber- und Virus-Forschung der Waffen-SS". Ding war der Leiter dieser Abteilung und der Angeklagte Hoven war offiziell mit seiner Stellvertretung betraut. (NO-265, Ankl.Bew. 287, R. 1127, in der Folge als Dingsches Tagebuch bezeichnet).

Dies waren also die verantwortlichen Stellungen Hovens: "Hauptsturmfuhrer in der Waffen-SS", Chefarzt des Konzentrationslagers Buchenwald und Stellvertreter Dr. Dings in der "Abteilung fuer Fleckfieber- und Virus-Forschung".

II. PERSOENLICHE TEILNAHME AN KRIMINELLEN HANDLUNGEN.

A. Fleckfieber- und andere Impfstoff-Experimente (Anklageschrift, Ziffer 6 (J))

Fuer eine eingehende Beschreibung des kriminellen Charakters dieser Experimente wird auf den Schriftsatz der Anklagebehoerde gegen den Angeklagten Mrugowsky verwiesen.

Nach dem Einfall in Russland im Jahre 1941 wurde Fleckfieber zu einer ornsten Gefahr fuer die deutsche Wehrmacht. Die Verwendung von Fleckfieberimpfstoff war eine der hauptsaechlichen Methoden, um ihr zu begegnen.

Am 29. Dezember 1941 fand eine Besprechung zwischen dem Angeklagten Handloser als Heeres-Sanitaetsinspektor, Conti vom Reichsinnenministerium, Reiter vom Reichsgesundheitsamt, Gildemeister vom Robert-Koch-Institut und dem Angeklagten Mrugowsky als Leiter des Hygiene-Instituts der Waffen-SS statt. Bei dieser Konferenz wurde beschlossen, dass Fleckfieber-Impfstoffe an Menschen ausprobiert werden sollten, um ihre Wirksamkeit festzustellen. Das Konzentrationslager Buchenwald wurde zum Pruefungsort des Fleckfieberimpfstoffes bestimmt. Ding wurde die Ausfuehrung der Experimente uebertragen. (Dingsches Tagebuch).

Die Versuche wurden urspruenglich in Block 44 und 49 des Konzentrationslagers Buchenwald durchgefuehrt. Spaeter wurde die Versuchsstation nach Block 46 des Lagers verlegt und im Jahre 1943 wurde Block 50 zur Versuchsstation hinzugenommen. Dieser Block wurde fuer die Herstellung des Fleckfieber-Impfstoffes verwendet. Hoven war der Stellvertreter Dings in beiden Bloecken (Kogon R. 1155-56, Dingsches Tagebuch). Der Eintrag im Dingschen Tagebuch vom 17. Maerz 1942 beweist, dass Hoven Dings Stellvertreter in seiner Abwesenheit war. Er lautet: "SS-Hauptsturmfuehrer Dr. Ding ist an Fleckfieber erkrankt und liegt im Lazarett in Berlin. SS-Hauptsturmfuehrer Hoven, Standortarzt der Waffen-SS, Weimar, ueberwacht in der Zwischenzeit die Stationen (Block 44 und 49)". (NO-265 oben). Der Zeuge X gon gibt an, dass Hoven im Konzentrationslager Buchenwald eine doppelte Funktion hatte. Er war Lagerarzt und der Stellvertreter Dr. Ding-Schulers fuer die Versuchsstation 46. (R. 1161). In seiner Eigenschaft als Lagerarzt spielte Hoven bei der Auswahl der Versuchspersonen fuer die Fleckfieberexperimente die entscheidende Rolle. Ding ersuchte den Lagerarzt, Vorkehrungen fuer die Auswahl der notwendigen Anzahl von Haeftlingen zu treffen. Der Lagerarzt leitete dieses Ersuchen an die Lagerverwaltung weiter (Kogon R. 1166, 1179-80). Hoven gab dies in seiner eidesstattlichen Erklaerung zu.

Er sagte:

"Die Auswahl der Haeftlinge, die vom Institut fuer Fleckfieber und Virusforschung fuer medizinische Versuche im Block 46 verwendet werden sollten, ging folgendermassen vor sich: Jedesmal wenn Dr. DING fuer seine Arbeiten Menschen brauchte, wurde eine Anforderung an das Buero des Lagerkommandanten gerichtet und an mich zur Durchfuehrung weitergeleitet. Gewoehnlich benachrichtigte mich ein Mann, namens SCHOBBER, ein SS Hauptsturmfuehrer, dass ich die erforderliche Anzahl von Haeftlingen fuer diese Zwecke auszuwaehlen moechte. Ich waehlte entsprechend der Anforderung aufs Geratewohl verschiedene Haeftlinge nach der Namensliste des Lagers aus. Sie wurden auf eine von mir unterzeichnete Liste gesetzt und an SCHOBBER zurueckgegeben, der oft bestimmte Namen aus politischen Gruenden von der Liste entfernte. Falls bestimmte Gefangene von der Liste abgesetzt wurden, hatte ich die Aufgabe, Ersatzleute auszuwaehlen, um Dr. DING die verlangte Anzahl von Opfern zur Verfuegung zu stellen. Nachdem ich die Liste vervollstaendigt an SCHOBBER zurueckgegeben hatte, wurde sie Dr. DING zur Genehmigung vorgelegt. Er unterzog sie einer abschliessenden Ueberpruefung, um sich vom medizinischen Standpunkt aus vom koerperlichen Zustand der gewaehlten Haeftlinge zu ueberzeugen und um festzulegen, ob sie seinen Anforderungen entsprachen oder nicht." (NO-429 oben, Unterstreichungen eingefuegt).

Dieses Beweisstueck wird durch die Aussage des Zeugen Roemhild (R. 1633) und die eidesstattliche Aussage des verstorbenen Ding selbst bekraeftigt. (NO-257, Ankl.Bew. 283, R. 1091).

Bezuglich seiner Stellung als Dings Stellvertreter gab Hoven in seiner eidesstattlichen Erklaerung an:

"Da ich in Bucherwald staendig mit Dr. Ding zusammen war, wurden wir gut Freund. Ich habe mit Ding haeufig die Probleme besprochen und von Zeit zu Zeit seine Versuchsstation besucht. Ding musste tatsaechlich alle zwei Wochen fuer nahezu drei Tage zu Besprechungen mit Dr. Mrugowsky und anderen nach Berlin fahren, und bei diesen Gelegenheiten hatte ich die Leitung des Fleckfieberinstitutes inne. Jedoch wurden, wenn Ding nach Berlin fuhr, die Versuche nicht eher fortgefuehrt als bis er zurueckkehrte.

Ding wiederum beschrieb Hovens Funktionen wie folgt:

"Hovens Anteil an Block 46"

Im Februar 1942 wurde die Durchfuehrung der Experimente ueber die Wirksamkeit der Fleckfieberimpfstoffe befohlen. Ich selbst wurde zur Abwicklung der Versuche bestimmt. Da ich meine Dienststelle in Berlin hatte, musste fuer die Zeit meiner Abwesenheit ein Stellvertreter in Bucherwald ernannt werden. Als diesen bestimmte der Reichsarzt SS Dr. Grawitz im Einverstaendnis mit dem leitenden Arzt der Konz. Laeger Lolling den damaligen SS-Obersturmfuehrer Dr. Hoven, als Standortarzt Bucherwald.

Meine Abwesenheit in Bucherwald beschränkte sich nur auf wenige Tage, die Dauer eines ganzen Versuches von der Schutzimpfung ueber die Infektion bis zum Ablauf der Fleckfiebererkrankung jedoch auf etwa 10 Wochen.

Dr. Hoven hatte die Aufgabe, die vom Reichssicherheitshauptamt und vom Chef der Konzentrationslager fuer die Versuche freigegebenen Haeftlinge (Berufsschwerverbrecher, zum Tode verurteilte) nach Pruefung ihrer koerperlichen Tauglichkeit fuer die Schutzimpfung oder die Infektion bereitzustellen.

Er hatte in seiner eigenen Vertretung haeufig den Dr. Platza mit der Ueberwachung des Block 46 beauftragt, der im uebrigen unter dem Kapo Dietzsch weitgehend selbstaendig arbeitete.

** **

Hoven hat als mein Stellvertreter bis zu meinem dauernden Eintreffen in Buchenwald, im August 1943 gearbeitet, im September ist er dann verhaftet worden.

Im Jahre 1942 hat er weitgehend selbstaendig arbeiten muessen, da ich selbst fleckfieberkrank wurde und anschliessend in ein Genesungsheim kam. Im Anschluss daran hatte ich ein Kommando an das Institut Pasteur in Paris. Die Krankengeschichten tragen durchweg die Unterschrift Hoven oder Platza." (NO-257, Ankl.Bew. 283, R. 1091).

Waehrend der Jahre 1942 und 1943 war Ding haeufig von Buchenwald abwesend. Hoven war zwar nicht in der Lage, eine neue Versuchsreihe aus eigener Initiative zu beginnen, war aber fuer die Auswahl und die Aufsicht ueber die Versuchspersonen selbst, die Berichte ueber die Fieberkurven, Tagebucheintraege und Berichte verantwortlich. Er beaufsichtigte die ordentliche Fuehrung von Aufzeichnungen ueber diese Experimente. (Kogon R. 1179-80). Diese Zeugenaussage wird durch die Aussage des Zeugen Kirchheimer voll und ganz bestaetigt. (R. 1324-41). Kirchheimer gab weiter an, dass der Kapo der Experimentierstation, Dietzsch, in Dings Abwesenheit von Hoven Anordnungen zur Durchfuehrung der Experimente erhielt und Hoven/in Dings Abwesenheit als befehlshabender Offizier. (R.1344) des Blocks 46 angesehen wurde./Selbst die Entlastungszeugen von Hoven gaben zu, dass Hoven in Dings Abwesenheit sein Stellvertreter war. (Pieck, R. 4753, Dorn R. 8631). Der Zeuge Roemhild sagte aus, dass Hoven mit Ding zusammenarbeitete und ihn in seiner Abwesenheit vertrat. (R.1633).

Ding war vom 10. September bis 10. Oktober 1942 im Pasteur-Institut in Paris. (Dingsches Tagebuch). Die obenangefuehrte eidesstattliche Er-
Dings
klaerung/beweist, dass er vom 17. Maerz bis er wieder nach Paris ging, ein Fleckfieber-Rekonvaleszent war. Ding war also

vom 17. März bis zum 10. Oktober 1942 vom Konzentrationslager Buchenwald abwesend. Während dieser Zeit wurde die Versuchsreihe I an 145 Versuchspersonen zu Ende geführt, die 5 Todesfälle zur Folge hatte. (Eintrag im Dingschen Tagebuch unter dem 19. April) Zwischen 19. August und 4. September 1942 wurde Versuchsreihe II begonnen mit "der Vorname von Schutzimpfungen zwecks Immunisierung gegen Pockfieber", und zwar an 40 Versuchspersonen. Diese Versuchspersonen wurden am 15. Oktober künstlich infiziert. Obwohl die künstliche Infizierung zu einer Zeit ausgeführt wurde, als Ding möglicherweise schon nach Buchenwald zurückgekehrt war, wurde mit den Versuchsreihen tatsächlich begonnen, als der Angeklagte Hoven allein die Versuchstation unter sich hatte (Dingsches Tagebuch Einträge von 19. August und 4. September 1942). 4 Personen starben als Folge dieser Versuchsreihen. (Dingsches Tagebuch Eintrag vom 20. November 1942).

Am 9. Januar 1943 wurde Hoven von den Angeklagten Genzken neben seinen Aufgaben als Dings Stellvertreter im Versuchsblock 46 offiziell damit betraut, Ding bei der Überwachung der Impfstoff-Produktion im Block 50 zu assistieren (Dingsches Tagebuch). Hoven mochte, dass der Gerichtshof beschliesse, er habe als Stellvertreter Dings nur mit der Herstellung von Impfstoffen zu tun gehabt. Dies ist durch die Aussagen von Kogon, Moenhild, Kirchheimer und Fleck und die oben und weiter unten beschriebenen Schriftstücke widerlegt worden. Sobald die Herstellung von Impfstoff erst am 16. August 1943 begonnen um Hoven wurde im September verhaftet. (NO-571, Ankl. Bw. 285, u. 1106). Aus Dings Arbeitsbericht fuer das Jahr 1943 geht hervor, dass er vom 28. Februar bis zum 6. März, vom 29. April bis zum 1. Mai und vom 25. Juni bis zum 15. August vom Konzentrationslager Buchenwald abwesend war. Aus demselben Dokument geht hervor, dass zwischen dem 18. Februar und dem 6. März 2 Versuchsreihen in der Versuchstation im Gange waren, erstens, "dass Versuche mit Gelbfieber-Impfstoff, die an 435 Versuchspersonen vorgenommen und zwischen dem 10. Januar und 17. Mai durchgeführt wurden und zweitens die Versuche mit Fleckfieber-

schutzimpfstoffen (Riga und Zuerich), die an 40 Versuchspersonen zwischen dem 25. Januar und dem 28. April vorgenommen wurden. (NO 571 oben). Während Dings Abwesenheit war vom 27. April bis zum 1. Mai eine der unbelsten, je in der Fleckfieber-Versuchstation vorgenommenen, Versuche in vollen Gänge, die Versuche, die Wirksamkeit der Drogen Meridin, Granulite und "utenol gegen Fleckfieber zu erproben. Diese Versuche wurden zwischen dem 24. April und 1. Juni 1943 vorgenommen. Von den insgesamt 39 Häftlingen, die dafür verwendet wurden, starben 21. (Dingsches Tagebuch). Während Dings Abwesenheit, der sich vom 25. Juni bis zum 15. August 1943 auf Krankheitsurlaub befand, waren zwei weitere Versuchsreihen in Gänge. Vom 28. Mai bis 4. Dezember 1943 wurden Versuche mit den Fleckfieberimpfstoffen "Asid", "Asid Adsorbat" und "Veigl" an 70 Versuchspersonen vorgenommen und Versuche mit der Droge "Othromin" wurden an 40 Versuchspersonen vorgenommen. (NO 571 oben). Die Versuche mit Asid, Asid Adsorbat und Veigl verursachten den Tod von 53 der 70 Personen, an denen Versuche vorgenommen worden waren (Dingsches Tagebuch).

Hoven war Dings Stellvertreter, bis Dings ständig von August 1943 ab im Konzentrationslager Buchenwald war. (NO-357 oben) Er wurde am 12. September 1943 verhaftet. (Dorn A. 8576) Aus den oben angeführten Beweisen geht hervor, dass Hövens Tätigkeit als Dings Stellvertreter sich hauptsächlich auf Dings Versuchsarbeiten bezog. Die gegenteilige Aussage des Entlastungszeugen Dorn ist also in diesem Punkt gänzlich unzutreffend. (Dorn A. 8632),

Aus der Beweiserhebung geht ferner hervor, dass Hoven nicht nur die Versuchsstation in Dings Abwesenheit beaufsichtigte, sondern, dass er selbst auch an den Versuchen durch Infizierung der Versuchspersonen teilnahm. Am 30. November 1940 wurde ein Versuch gemacht, Versuchspersonen künstlich mit durch Fleckfieber infizierten Lacusen zu infizieren.* Als die Behälter, in denen die Lacuse gehalten wurden, während des Transportes undicht geworden waren, und die Gefahr einer

* (Kogon, R. 1220-1; Kirchheimer, R. 1326; Ding Diary)

Fleckfielerepidemie im Lager drohte, wurden die Behälter verbrannt (Dingsches Tagebuch). Am 3. Dezember 1942 wurde eine zweite Sendung von mit Fleckfieber infizierten Läuse von einem Wehrmachtsoffizier fuer denselben Zweck nach Buchenwald gebracht (Dingsches Tagebuch). 15 Versuchspersonen wurden in Gegenwart des Angeklagten Hoven und des Wehrmachtsoffiziers, der die Läuse gebracht hatte, infiziert. (Kirchheimer R. 1326 und Dorn R. 8578). Der Entlastungszeuge Dorn sagte aus, dass Hoven den Wehrmachtsoffizier veranlasste, vor Beendigung des Versuchs Block 46 und das Lager zu verlassen, um Gelegenheit zu haben, die Läuse, die wegen der Möglichkeit einer Infektion fuer die SS-Leute im Lager eine Gefahr darstellten, zu vernichten. Tatsächlich wurden indessen die Infektionsversuche weitergefuehrt, selbst nachdem der Wehrmachtsoffizier weg war und ungefaehr 9 von den 15 Häftlingen wurden dann infiziert (Kirchheimer R. 1341). Da Kirchheimer ein Krankenpfleger in der Versuchsstation war, und persönlich waehrend dieses Versuchs anwesend war (Kirchheimer R. 1339), wogegen Dorns Aussagen auf Hoerensagen beruht und sich auf Annahmen stuetzt, (Dorn R. 8577-3, 8628-30), muss Kirchheimers Aussage als die zuverlaessigere angesehen werden. Dass Hoven auf jeden Fall waehrend des Experiments anwesend war, wird durch die Aussage beider Zeugen bewiesen. (Kirchheimer R. 1326 und Dorn R. 8629).

Diese Begebenheit beweist, nicht nur Hovens taetige Beteiligung an den Fleckfieberversuchen, sondern auch dass, selbst wenn Ling im Lager anwesend war, er die Macht hatte, in Versuchsblock 46 Befehle zu erteilen.

Die Unrichtigkeit von Hovens Angaben, dass er nie Fleckfieberinfizierungen vorgenommen hatte (R. 9761) wurde durch die Aussage des Zeugen Louwarden vor dem Hollaendischen Buero in Amsterdam zur Untersuchung von Kriegsverbrechen bewiesen. Louwarden sagte aus, dass er zusammen mit anderen Häftlingen von Hoven im Block 46 mit Fleckfieberimpfstoffen infiziert worden sei. 6 Wochen spaeter erhielten sie von Hoven und seinen Assistenten eine neue Injektion. Einige Tage

darauf erkrankten alle Versuchspersonen schwer an Fleckfieber. (NO-1063, Ankl. Bew. 326, R. 1498). Diese Aussage beweist unzweifelhaft, dass Hoven selbst einige der Versuche vornahm. Leeuwarden sagte auch ueber diesen Punkt vor einem Beauftragten des Gerichtshofes aus, der ihm Fragen vorlegte, die von Hovens Verteidiger aufgesetzt worden waren. Leeuwarden gab an, er sei ganz sicher, dass er von Hoven infiziert worden sei. Der Angeklagte Hoven habe ihm die Injektion gegeben und ein paar Tage spaeter die Versuchspersonen in Block 46 besucht, um sich zu vergewissern, ob sie schon von Fleckfieber befallen seien. (Siehe auch die Angabe von Vandeling NO 10 63 oben und seine Antworten auf gestellte Fragen.)

Angesichts des ueberwaeltigenden Beweismaterials muessen die zu seinen eigenen Gunsten gemachten Angaben Hovens, er habe Ding nur in Block 50 vertreten und nicht mit den Versuchen selbst zu tun gehabt, als voellig unglaubwuerdig angesehen werden. Waehrend Hovens Taetigkeit in der Versuchsstation wurden nicht weniger als 100 Haeflinge als Folge der Fleckfieberver-suche getoetet.

B. Euthanasie-Programm - Aktion 14 f 13.

Wegen einer eingehenden Beschreibung des sogenannten Euthanasie-Programms, das in den Konzentrationslagern unter dem Decknamen "Aktion 14 f 13" durchgefuehrt wurde, siehe den Schriftsatz der Anklagebehoerde gegen den Angeklagten Karl Brandt.

Am 1. September 1939 uebertrug Hitler dem Angeklagten Karl Brandt und Reichsleiter Bouhler, dem Chef des Angeklagten Brack, die Durchfuehrung des Euthanasie-Programms, d.h. die Ausrottung Geisteskranker und unheilbar Kranker. (630-PS, Ankl.Bew. 330, R/ 1516). Der wahre Grund, der dieser Anordnung Hitlers zugrunde lag, war "nutzlose Esser" und andere unerwuenschte Personen, die als nutzlos fuer den deutschen Kriegseinsatz erachtet wurden, aus dem Wege zu raeumen. (Siehe Schriftsatz der Anklagebehoerde gegen den Angeklagten Karl Brandt).

Anfangs Sommer 1940 wurde das Euthanasie-Programm ausgedehnt, um Tausende von Konzentrationslagerhaeftlinge miteinzuschliessen. Die Lageraerzte trafen eine vorlaeufige Auswahl der Haeftlinge, die fuer Ausrottung in Frage kamen, und diese Gruppe wurde dann von einer Sachverstaendigen-Kommission des Euthanasie-Programms, die die verschiedenen Konzentrationslager bereiste, "untersucht". Ueber die ausgesuchten Haeftlinge wurden Fragebogen ausgestellt und sie wurden spaeter zur Euthanasiestation verbracht, wo sie getoetet wurden. (Mennecke R. 1882-3). Nichtdeutsche Staatsangehoerige und Juden, die Konzentrationslagerhaeftlinge waren, wurden in grosser Anzahl Opfer dieses Programms. (Mennecke R. 1887). (Dr. Muthig, der Lagerarzt im Konzentrationslager Dachau war, und deshalb in einer Stellung, die der des Angeklagten Hoven in Buchenwald entsprach, gab in seiner eidesstattlichen Aussage an, dass die Sachverstaendigen-Kommission im Herbst 1941 Haeftlinge zur Ausrottung durch Gas auswaelhte, die arbeitsunfaehig waren. (NO-2799, Ankl.Bew. 497, R.7710)). Das Konzentrationslager Buchenwald wurde von einer solchen Sachverstaendigen-Kommission

im Juni 1941 zum selben Zweck besucht. Dieser Besuch fand zum ausdruecklichen Zweck statt, Haeftlinge zur Toetung in sogenannten Euthanasiestationen auszusuchen, die tatsaechlich nichts anderes als Ausrottungsstationen waren. (NO-3010, Ankl.Bew. 503, R.7734). Diese Aussage von Dr. Gorgass, der ein Mitglied dieser Aerzte-Kommission war, wird durch den Zeugen Roemhild bestaetigt, der angab, dass im Sommer 1941 eine Aerzte-Kommission ins Lager Buchenwald kam und Haeftlinge auswählte, die dann mit einem Transport an einen unbekannten Bestimmungsort verschickt wurden. Ein paar Stunden nach ihrer Abfahrt wurde die persoenliche Habe dieser Haeftlinge zum Lager zurueckgeschickt, sodass es offensichtlich war, dass diese Personen getoetet worden waren. Roemhild erfuhr spaeter, dass diese Insassen mit Gas umgebracht worden waren. (R. 1634). Er sagte ferner aus, dass im Herbst 1941 juedische Insassen des Konzentrationslagers Buchenwald von den Lageraerzten, unter denen der Angeklagte Hoven war, aerztlich untersucht wurden. Diejenigen Juden, die arbeitsuntauglich waren, wurden von den Lageraerzten ausgesucht und in drei bis vier Transporten in die Euthanasiestation Bernburg gesandt und dort durch Gas getoetet. Ungefaehr 600 Haeftlinge wurden bei dieser Gelegenheit ums Leben gebracht. Gefaelschte Todesurkunden wurden ausgestellt, die besagten, dass diese Haeftlinge eines natuerlichen Todes gestorben seien. Die Opfer dieser Aktion waren Haeftlinge aller Nationen, Deutsche, Oesterreicher, Polen und Tschechen, und die meisten von ihnen waren gar nicht krank. (Roemhild R. 1636-37, 1683).

Die Funktion der Lageraerzte bei dem Euthanasieprogramm wird in einem Brief der Konzentrationslagerinspektion an die Konzentrationslager einschliesslich Buchenwald beschrieben. Er lautet auszugsweise wie folgt:

"Wie den Lagerkommandanten der Konzentrationslager Dachau, Sachsenhausen, Buchenwald, Mauthausen und Auschwitz mit dem Bezugsschreiben mitgeteilt wurde (12. Nov. 1941), wird in der naechsten Zeit die Aerzte-Kommission die vorgenannten Konzentrationslager zur Ausmusterung von Haeftlingen aufsuchen.

"Fuer die Konzentrationslager Flossenbug, Gross-Rosen, Neuen-
gamme und Niederhagen ist die 1. Januarhaelfte 1942 fuer diese
Ueberpruefung vorgesehen.

"Da die zur Verfuegung stehenden Aerzte sehr stark in Anspruch
genommen sind, muessen die Ueberpruefungsarbeiten in den Kon-
zentrationslagern, soweit es irgend geht, abgekuerzt werden.

"In der Anlage wird Muster eines Meldebogens als Vorlage zur Vor-
arbeit uebersandt. Diese Formblaetter sind im Abzugsverfahren
herzustellen und auszufuellen. Auf diesem Muster ist die Beant-
wortung einzelner Fragen vorgenommen, dieselben sind ausserdem
rot unterstrichen, nur diese Fragen brauchen beantwortet werden.
Bezuglich einzelner Fragen werden noch folgende Erlaeuterungen
gegeben:

"Die Frage "Koerperl. unheilb. Leiden" ist nach Moeglichkeit nicht
nur mit Ja oder Nein, sondern mit kurzer Angabe der Diagnose zu
beantworten. Ausserdem ist auch die Frage der Kriegsbeschae-
digung festzustellen, weil diese eine wesentliche Erleichterung
bei der Ueberpruefungsarbeit der Aerztekommission gewaehrleistet.
Wenn der Raum bei den Fragen "Delikt" und "Fruehere Straftaten"
nicht ausreicht, ist die Beantwortung auf der Rueckseite des
Meldebogens vorzunehmen, wie es auf dem Muster vermerkt ist.
Einzelne Vorstrafen sind nicht aufzuzahlen, es ist nur ueber
die hauptsaechlichsten Vorstrafen kurz zu berichten, die einzelnen
Delikte sind nur kurz aufzufuehren. Welche Haeftlinge fuer die
Vorfuehrung in Frage kommen, ist aus den im Fragebogen gestellten
Fragen ersichtlich.

"Saemtliche vorhandenen Akten und Krankenblaetter sind der Kom-
mission auf Verlangen zur Einsichtnahme zur Verfuegung zu stellen.
(1151-PS, Ankl.Bew. 411, R. 1725).

Der Lagerarzt stellte eine Liste der Haeftlinge auf, die fuer
Toetung in Frage kamen und fuellte gewisse vorlaeufige Daten auf den
Fragebogen aus. Dies war die Gruppe, die die Aerztekommission unter-
suchte, als sie das Lager besuchte.

Ein Memorandum vom 26. Maerz 1942 von dem WVHA beweist, dass
Arbeitsunfaehigkeit die Grundlage fuer die Auswahl bildete. Es besagte:

"Durch die Meldung eines Lagerkommandanten wurde bekannt, dass
von 51 fuer die Sonderbehandlung 14 f 13 ausgemusterte Haeftlinge
42 dieser Haeftlinge nach einiger Zeit "wieder arbeitsfaehig"
wurden

und somit der Sonderbehandlung nicht zugeführt werden brauchten. Hieraus ist ersichtlich, dass bei der Auswahl dieser Häftlinge nicht nach den gegebenen Bestimmungen verfahren wird. Es dürfen der Untersuchungskommission nur solche Häftlinge zugeführt werden, die den gegebenen Bestimmungen entsprechen und vor allen Dingen nicht mehr arbeitsfähig sind." (1151-PS oben).

Ein weiteres Memorandum vom 27. April 1943 vom WVHA an alle Konzentrationslager beweist, dass sich vor jenem Datum die Auswahl von Häftlingen für die Euthanasie nicht auf angebliche Geisteskranken beschränkte sondern sich auf alle Arbeitsunfähigen erstreckte. Es hiess darin:

"Nach Vortrag hat der Reichsführer SS und Chef der Deutschen Polizei angeordnet, dass in Zukunft nur geisteskranken Gefangene für die Aktion 14 f 13 von den hierzu ernannten ärztlichen Kommissaren ausgewählt werden dürfen.

Alle arbeitsunfähigen anderen Gefangenen (Personen mit Tuberkulosis, bettlägerige Kranke usw.) sind absolut von dieser Aktion auszuschliessen. Bettlägerigen Gefangenen ist passende Arbeit zu geben, die auch im Bett verrichtet werden kann." (1151-PS, oben).

Der Zeuge Mennocke, der selbst Mitglied einer Ärztekommision war, die zwecks Ausmusterung von Häftlingen für die Tötung in den Euthanasiestationen die Runde durch die Konzentrationslager machte, bezeugte, dass er das Konzentrationslager Buchenwald zweimal besuchte, das erste Mal im Herbst 1940 und das zweite Mal im November 1941. (R. 1883). Als die Sachverständigenkommission die Konzentrationslager besuchte, waren die Personalangaben der Häftlinge, die dieser Kommission vorgeführt wurden, in den Fragebogen bereits eingetragen. Dies geschah vom Büro des Lagerarztes. Die Sachverständigen berieten sich mit den Lagerärzten, die die Liste der zu untersuchenden Häftlinge aufgestellt hatten. Die für die Ausrottung in Frage kommenden Häftlinge mussten in erster Instanz vom Lagerarzt ausgewählt werden, da ja die Ärztekommision nur ein paar Tage im Lager blieb und es ihr nur dann möglich war, ihre Funktionen auszuüben, wenn sie sich mit der Häftlingsgruppe befasste, die ihr vorgeführt wurde. Nicht alle

von dem Lagerarzt fuer die Euthanasie ausgewählten Haeftlinge waren geisteskrank. Arbeitsunfaehige Haeftlinge und andere, die an Krankheiten, wie Tuberkulose litten, wurden dazu genommen. (Mennecke R. 1888-9).

Spezielle Bestimmungen bestanden bezueglich der Untersuchung von Juden. Juden wurden nicht aerztlich untersucht. Es genuegte, ihre Fragebogen durch Eintrag der Gruende fuer ihre Verhaftung auszufuellen. (Mennecke, R. 1891-3). Die Juden, die in diesen Ausrottungsaktionen einbegriffen wurden, waren meistens geistig und koerperlich gesund. Die der Aerztekommission vorgefuehrten Juden waren bereits vorher von den Lageraerzten ausgesucht worden. (Mennecke, R. 1894). Wegen einer Liste der in Buchenwald zur Ausrottung ausgewählten Juden siehe die Bilder der Juden mit Menneckes handschriftlichen Bemerkungen auf der Rueckseite. (NO-3060, Ankl.Bew. 567, R. 10704; NO-2436, Ankl.Bew. 568, R. 10705). Mennecke erinnerte sich daran, dass es der Angeklagte Hoven im Konzentrationslager Buchenwald war, der ihm die Haeftlinge vorfuehren liess. Hoven war eine der leitenden Persoenlichkeiten im Lager und war in Wirklichkeit der Lagerarzt. (Mennecke, R. 1895). Menneckes Zeugenaussage wird durch seinen Brief vom 25. November 1941 an seine Frau bestaetigt, in dem er seine Arbeit in Buchenwald beschreibt:

....."Der erste Arbeitstag in Buchenwald ist beendet. Wir waren um 8.30 Uhr heute frueh draussen. Ich stellte mich zunaechst bei den massgeblichen Fuehrern vor. Der stellvertr. Lagerkommandant ist SS-Hauptsturmfuehrer Florstaedt, Lagerarzt: SS-Obersturmfuehrer Dr. Hoven. Zunaechst gab es noch ca. 40 Bogen fertig auszufuellen von einer ersten Portion Arier, an der schon die beiden anderen Kollegen gestern gearbeitet hatten. Von diesen 40 bearbeitete ich etwa 15. Als diese ganze Portion dann fertig bearbeitet war, haute Schmalenbach ab, um nach Dresden zu fahren, um bis zum Ende unserer hiesigen Arbeit nicht mehr wiederzukommen. Anschliessend erfolgte dann die "Untersuchung" der Patienten, d.h. eine Vorstellung der Einzelnen und Vergleich der aus den Akten entnommenen Eintragungen. Hiermit wurden wir bis Mittag noch nicht fertig, denn die beiden Kollegen haben gestern nur theoretisch gearbeitet, sodass ich diejenigen "nachuntersuchte", die Schmalenbach (und ich selbst heute morgen)

vorbereitet hatte und Mueller die seinigen. Um 12 Uhr machten wir erst Mittagspause..... Danach untersuchten wir noch bis gegen 16 Uhr und zwar ich 105 Pat., Mueller 78 Pat., sodass also damit endgueltig als erste Rato 183 Boegen fertig waren. Als zweite Portion folgte nun insgesamt 1200 Juden, die saemtlich nicht erst "untersucht" werden, sondern bei denen es genuegt, die Verhaftungsgruende (oft sehr umfangreich!) aus der Akte zu entnehmen - und auf die Boegen zu uebertragen. Es ist also eine rein theoretische Arbeit, die uns bis Montag einschliesslich ganz bestimmt in Anspruch nimmt, vielleicht sogar noch laenger. Von dieser zweiten Portion (Juden) haben wir heute dann noch gemacht: ich 17, Mueller 15, Punkt 17 "warfen wir die Kelle weg" und gingen zum Abendessen So wie ich oben nun den heutigen Tag geschildert habe, werden auch die naechsten Tage verlaufen - mit genau demselben Programm und derselben Arbeit. Nach den Juden folgen noch etwa 300 Arier als dritte Portion, die wieder "untersucht" werden muessen. Wir haben also bis etwa Ende naechster Woche hier zu tun. Dann fahren wir am Sonnabend, den 6.12. nach Hause....." (NO-907, Ankl.Bew. 412, R. 1746).

Ein weiterer Brief Mennekes mit dem Datum vom 12. Januar 1942 zeigt, dass auch in anderen Konzentrationslagern die Aerztekommission mit dem Lagerarzt eng zusammenarbeitete. In dem Konzentrationslager Ravensbrueck war es der Lagerarzt Dr. Schidlausky, an den Mennecke zwecks Mitarbeit am Euthanasieprogramm herantrat. (NO-907, Ankl. Bew. 412, R. 1748).

Der Angeklagte Hoven versuchte, sich von der Aktion 14 f 13 zu distanzieren, indem er sagte, dass Koch, der Lagerkommandant von Buchenwald, angeordnet haette, alle Juden in der Aktion 14 f 13 einzuschliessen, sodass keine vorherige Untersuchung der Juden vorgenommen zu werden brauchte und auch keine Sonderliste der Juden von den Aerzten aufgestellt werden musste. Dies ist kein Entschuldigungsgrund. Hoven wusste von der Aktion und nahm taetig daran teil. Es ergibt sich ausserdem aus Mennekes Aussage und aus seinen Briefen, dass waehrend des Besuches der Aerztekommission im November 1941 nicht nur Juden sondern auch 483 Arier den Sachverstaendigen vorgefuehrt wurden. (NO-907, siehe oben; Mennecke R. 1945).

Dass Hoven an der Auswahl der der Aerztekommission vorgefuehrten Konzentrationslagerhaeftlinge teilnahm, wird weiterhin durch die Aussage des Zeugen Roemhild bewiesen. (R. 1636). Die Aussage des Zeugen Kogen beweist, dass zwischen dem Angeklagten Hoven und Dr. Eberle, dem Chefarzt der Bernburger Euthanasiestation, ein Briefwechsel stattfand, der Hovens Beziehungen zur Aktion 14 f 13 klar zeigt. (R. 1212).

Ausserdem gab Hoven in seiner vor der Hauptverhandlung abgegebenen eidesstattlichen Erklaerung seine Teilnahme am Euthanasieprogramm zu. Er sagt:

"9. 1941 erfuhr ich, dass das sogenannte "Euthanasieprogramm" zur Ausrottung der Schwachsinnigen und Krueppel in Deutschland durchgefuehrt wurde. Der Lagerkommandant KOCH rief damals alle massgeblichen SS-Fuehrer des Lagers zusammen und gab ihnen bekannt, dass er von HITLER einen Geheimbefehl erhalten habe, dass alle Schwachsinnigen und verkruempelten Haeftlinge des Lagers getoetet werden sollten. Der Lagerkommandant erklarte, dass auf Befehl vorgesetzter Dienststellen in Berlin alle juedischen Haeftlinge des Konzentrationslagers Buchenwald mit in diesem Ausrottungsprogramm einbegriffen werden sollten. Gemass dieser Befehle wurden 300 bis 400 juedische Gefangene verschiedener Nationalitaeten zur Ausrottung zu der "Euthanasiestation" in Bernburg geschickt. Ein paar Tage spaeter erhielt ich vom Lagerkommandanten eine Namensliste der in Bernburg ausgerotteten Juden mit dem Auftrag, gefaelschte Todesurkunden auszustellen. Ich habe diesen Befehl befolgt. Diese Sonderaktion wurde unter dem Decknamen "14 f 13" durchgefuehrt. Ich habe Bernburg einmal gelegentlich einer Verbrennung besucht, die ich fuer 2 Haeftlinge, die beim Aussenkommando Wernigerode des Konzentrationslagers Buchenwald gestorben waren, veranlasst habe. (NO-429, Ankl.Bew. 281, R.1078).

Hoven nahm auch an der Massentoetung von Tuberkulosekranken im Buchenwalder Konzentrationslager selbst teil. Ungefaeher 500 angeblich an Tuberkulose leidende Haeftlinge wurden im Juli 1941 durch Evipan-Einspritzungen im Lagerlazarett, wenn sie zur Behandlung kamen, getoetet. Diese Toetungen wurden von dem Arzt Dr. Eisen, einem Untergebenen Hovens, geleitet. Die meisten Opfer dieser Aktion waren keineswegs unheilbar krank, sondern nur unterernaeht und haetten unter besseren Lebensbedingungen gerettet werden koennen. (Roemhild, R. 1638).

Roemhild sagte im Kreuzverhoer aus, dass Hoven die Ausrottung der tuberkulösen Haeftlinge wahrscheinlich nicht haette verhindern koennen (R. 1664). Das ist jedoch von keiner Bedeutung. Ebenso wenig haetten die Moerder in den Ausrottungskammern von Auschwitz die Toetung der Juden verhindern koennen. Hovens Mitwirkung macht ihn nichtsdestoweniger zu einem Haupttaeter an dem Verbrechen des Mordes. In einem weiteren Sinne sind es die Tausende von "Hovens" in ganz Deutschland, die diese Verbrechen erst moeglich machten. Roemhilds Aussage ueber die Ausrottung der tuberkulösen Haeftlinge wurde durch die Aussage des Zeugen Kogon bestaetigt. Dieser erklaerte, dass manchmal eine ganze Station auf diese Weise geraeumt wurde, um auf diese Weise in dem ueberfuellten Krankenbau Platz zu schaffen (R.1214). Dr. Horn, Entlastungszeuge fuer den Angeklagten Hoven, gab zu, dass im Lagerlazarett ein Block war, den zu betreten ihm verboten war. Es war im Lager bekannt, dass in diesem Block invalide Haeftlinge getoetet wurden. Die Haeftlinge legten die Schuld fuer die im Lazarett ausgefuehrten Toetungen Hoven zur Last (Horn, R.5286). Hoven gebrauchte selbst das Wort "Euthanasie" gegenueber Horn und erwahnte in diesem Zusammenhang, der Lagerkommandant habe die Politik der Toetung schwerkranker Patienten gebilligt (Horn, R.5291).

Ausser seiner Mitwirkung am offiziellen Euthanasie-Programm und an der Ermordung tuberkuloöser Haeftlinge, ermordete Hoven noch persoenlich Kranke und andere Haeftlinge von sich aus. Dies war eine bei den Lageraerzten gebräuchliche Uebung. (Vergl. Prozess gegen Oberhauser; ebenso die Eidesstattliche Erklaerung von Rosenthal, NO-858, Ankl.Bow.223, R.889). Hoven gab zu, dass entweder von ihm oder unter seiner Oberaufsicht 60 Haeftlinge durch Phenol- oder Evipan-Einspritzungen getoetet wurden. (R. 9851).

In seiner Eidesstattlichen Erklaerung sagte er:
"10. Im Lager gab es eine grosse Zahl von Gefangenen, die auf die Stellungen eifersuechtig waren, die einige wenige Haeftlinge innehatten. Das heisst, einige der politischen Gefangenen hatten Schluesselstellungen inne und konnten sich bessere

Lebensbedingungen verschaffen, als der Durchschnitt. Daher wurden sie von vielen Gefangenen um diese Stellen beneidet und diese gaben sich jede erdenkliche Muehe, die Maenner, die diese Schluesselstellungen inne hatten, anzuschwaerzen. Solche verraeterische Handlungsweise wurde durch den "Lagerklatsch" den Maennern in den Schluesselstellungen bekannt, und solche Verraeter wurden dann sofort getoetet. In jedem Falle wurde ich spaeter davon benachrichtigt, um die Todeserklaerungen der getoeteten Gefangenen auszustellen. Diese Erklaerungen gaben nicht die wahre Todesursache an, sondern sie wurden so ausgestellt, dass daraus der Tod des Gefangenen auf Grund natuerlicher Ursachen hervorging.

11. In einigen Faellen habe ich die Toetung dieser unwuerdigen Haeftlinge geleitet, die auf Wunsch der Haeftlinge durch Phenolinjektionen vollzogen wurden. Diese Toetungen fanden im Lagerlazarett statt und verschiedene Haeftlinge haben mir dabei assistiert. In einem Fall kam Dr. DING in das Lazarett um solchen Toetungen mit Phenol beizuwohnen und sagte, ich fuehrte das nicht richtig aus, weswegen er selbst einige Injektionen vornahm. Damals wurden 3 Haeftlinge mit Phenol getoetet und starben innerhalb einer Minute.

12. Die Gesamtzahl der getoeteten Verraeter war etwa 150, von denen etwa 60 mit Phenolinjektionen getoetet wurden, entweder von mir selbst oder unter meiner Leitung, und der Rest wurde auf verschiedene Weise von den Haeftlingen umgebracht z.B. durch Schlaege." (NO-429).

Er versuchte, diese Toetungen durch die Erklaerung zu rechtfertigen, diese Haeftlinge seien Denunzianten, Spione und Spitzel der SS gewesen und haetten deshalb ausgerottet werden muessen. Er sagte, wenn sie ihr Werk haetten fortsetzen duerfen, waere die illegale Lagerfuehrung ausgemerzt worden und das kriminelle Element haette die Oberhand gewonnen. Hovens Rechtfertigungsversuch fuer die Toetung von Konzentrationslagerhaeftlingen ist natuerlich nicht stichhaltig. Es kann wohl wahr sein, dass Hoven mit der illegalen Lagerfuehrung sympathisiert und sogar mit ihr gearbeitet hat. Einige seiner Opfer moegen sogar von ihm auf Grund von Anregungen getoetet worden sein, die ihm von der illegalen Lagerleitung gemacht wurden. Es ist aber selbstverstaendlich, dass diese politischen Gefangenen nicht beurteilen konnten, ob deren Toetung im Interesse der Lagergemeinschaft wirklich noetig war. Sie beurteilten diesen Notstand von ihrem eigenen Gesichtspunkt aus, d.h. vom Standpunkt ihres eigenen Nutzens. Hoven selbst hatte ueberhaupt

kein Urteil in dieser Beziehung und machte sich einfach zum willigen und kaeuflichen Werkzeug einer kleinen Clique im Lager, die unzweifelhaft oft nicht nur Personen auszurotten trachtete, deren Taetigkeit der Wohlfahrt der Mithaeftlinge schaedlich zu sein schien, sondern auch persoenliche Gegner und Feinde. Dass Hoven von den Haeftlingen bestochen und fuer seine Worte bezahlt wurde, wird durch die Aussage verschiedener Zeugen bewiesen. Kogon bezeugte:

"Ich kann nur den Schluss ziehen, dass beide Motive, das politische Motiv und das Korruptionsmotiv, bei Dr. Hoven massgebend war. Wenn Dr. Hoven irgendeinen Wunsch aeusserte, und er hat viele Waensche geaeussert, dann wurden diese Waensche in allen Faellen ueberreichlich erfuellt." (R. 1213)

"Er hat also sowohl selbst solche Waensche geaeussert, als auch wurden ihm alle nur denkbaren Vorteile von Seiten solcher Geretteten verschafft." (R. 1214).

Kirchheimer sagte im gleichen Sinne aus. (R. 1346). Der Entlastungszeuge Pieck malte fuer Hoven und seine Familie Bilder, und der Entlastungszeuge Horn sagte in seiner eidesstattlichen Erklaerung, Hoven sei durchaus verdorben gewesen. Die Gefangenen wussten es, und sie verdarben ihn noch mehr auf jede moegliche Weise und machten ihm Geschenke an Moebeln, Kleidung und Nahrungsmitteln. Es gab Zeiten, in denen fuer Hoven voellige Werkstaetten errichtet wurden, in denen 30 oder noch mehr Haeftlinge arbeiteten. (R. 4051). Pieter Schalker sagte vor dem Hollaendischen Buero fuer die Untersuchung fuer Kriegsverbrechen in Amsterdam aus, dass Hoven eine ausnehmend ueble Rolle spielte und infolge vollstaendig unzureichender aerztlicher Sorgfalt unzaehlige Menschenleben auf dem Gewissen hatte. Als es in den letzten Jahren offenbar wurde, dass Deutschland besiegt werden wuerde, aenderte er seine Haltung gegenueber den Haeftlingen. (NO-1063, Ankl. Bew. 328, R. 1498). Als Schalker von dem Kommissar des Gerichtshofes auf Antrag des Verteidigers befragt wurde, erweiterte er seine Erklaerung und sagte, dass Hoven die den Versuchspersonen in Block 46 gelieferten Lebensmittel stahl und sich auch andere

Dinge, wie Schuhe, Spielzeuge und Frauenkleidung verschaffte.

Die eidesstattliche Aussage Ackermanns, der ein Haeftling in der Pathologischen Station unter ihm war, beweist, dass Hoven an den gebräuchlichen brutalen Verbrechen in den Konzentrationslagern teilnahm.

Er sagte:

"Einmal stand Dr. HOVEN mit mir am Fenster der Pathologie und deutete auf einen ueber den Appellplatz gehenden Haeftling, den ich nicht kannte und erklarte mir, den Totenschadel dieses Haeftlings moechte ich bis morgen Abend auf meinem Schreibtisch sehen. Der Haeftling wurde ins Revier bestellt, nachdem sich der Arzt die Nummer des Haeftlings notiert hatte. Die Leiche kam noch an demselben Tag in den Sektionsraum. Auf Grund des Leichenbefundes war zu sehen, dass der Haeftling durch Spritzen getoetet worden war. Der Schadel wurde befehlsgemaess praepariert und an Dr. HOVEN abgeliefert." (NO-2631, Ankl. Bew. 522, R. 9955).

Hoven billigte auch das Pruegeln von Konzentrationslagerhaeftlingen. (NO-2313, Ankl. Bew. 523, R. 9961; NO-2312, Ankl. Bew. 524, R. 9961).

Einer dieser Haeftlinge starb.

Am 20. August 1942 schlug Hoven dem Lagerkommandanten von Buchenwald vor, um Papier zu sparen, die Totenberichte von russischen politischen Gefangenen einzustellen.

fuer

"Es wird gebeten zu pruefen, ob/die verstorbenen politischen Russen die Erstellung der Totenberichte notwendig ist. Laut einer in voriger Woche gegebenen Anweisung war die Erstellung nur noch eines Formulars angeordnet. Das bedeutet wohl Papierersparnis, aber bei dem hohen Kontingent, das die politischen Russen im Rahmen der verstorbenen Haeftlinge z.Zt. stellen, liesse sich weiterhin Papier und auch Zeit ersparen, falls diese Totenberichte in jegfall kommen koennten. Die Zustellung der Totenmeldung wuerde wie bisher, wie das auch bei den russischen Kriegsgefangenen der Fall ist, erfolgen." (NO-2148, Ankl. Bew. 570, R. 10708).

Die Beweisaufnahme hat ergeben, dass neben den 60 Gefangenen, die von ihm zugestandenerweise getoetet wurden, Hoven noch an der Toetung von vielen anderen an Unterernahrung und Erschoepfung leidenden Haeftlingen des Buchenwalder Konzentrationslagers teilnahm. Er waelte die Opfer fuer die Transporte nach der Bernburger Euthanasiestation aus. Sein Vorgehen, dass alle seine Handlungen nur zum Besten der politischen Gefangenen im Konzentrationslager erfolgt seien, ist offensichtlich laecherlich und

ohne jegliche Basis.

Es ist von Interesse festzustellen, dass Hovens Vorbringen, er habe aus idealen Beweggründen getötet, das gleiche ist, das er in dem Prozess gegen ihn im Jahre 1944 gebrauchte; nur war damals sein angeblicher idealer Beweggrund: "Im Interesse der SS und der Wehrmacht einen Skandal zu vermeiden." (NO-2380, Ankl. Bew. 527, R. 9970; siehe auch NO-2366, Ankl. Bew. 526, R. 9969).

C. Versuche mit Gas-Oedem-Serum

Die eidesstattliche Erklärung Dings besagt, dass auf einer Konferenz in der militärärztlichen Akademie in Berlin zu Ende des Jahres 1942, an der er teilnahm, die Todesfälle des Gas-Oedem-Serums bei verwundeten Soldaten einer der Verhandlungsgegenstände waren. Prof. Killian von der Heeres sanitätsinspektion und Krugowsky berichteten von Soldaten, die das Gas-Oedem-Serum in beträchtlichen Dosen erhalten hatten und Stunden danach, nachdem sie sich anscheinend erholt hatten, plötzlich ohne sichtbaren Grund starben. Man nahm an, dass der Phenolgehalt des Serums die Todesursache gewesen sei. Krugowsky befahl Ding in Killians und Schreibers Gegenwart, an einer Euthanasie eines Konzentrationslagerhäftlings mittels Phenol teilzunehmen und das Resultat genau zu beschreiben. Ding bat den Angeklagten Hoven, ihn davon in Kenntnis zu setzen, wenn er wieder eine Euthanasie mit Phenol vornehme. Hoven bat dann Ding am nächsten Abend in den Krankenbau zu kommen und gab vier oder fünf Häftlingen - die sofort starben - in seiner Gegenwart Phenoleinspritzungen. (NO-257, Ankl. Bew. 283, R. 1091).

III. Allgemeine Verteidigung

Hoven versuchte, die Widersprüche zwischen seiner Aussage vor dem Gerichtshof und seiner eidesstattlichen Erklärung vor der Hauptverhandlung in Bezug auf diese Tötungen und in Bezug auf seine Stellung als Dings Vertreter zu erklären, indem er behauptete, dass diese eidesstattliche Erklärung englisch abgefasst war und dass er, da er mit dieser Sprache nicht völlig vertraut war,

gewisse Worte missverstand und sich ihrer richtigen Bedeutung nicht bewusst war. Das ist aber nicht der Fall. Hoven wurde von dem Gerichtshof ueber die Worte in der Eidesstattlichen Erklaerung, die er nicht ins Deutsche uebersetzen konnte, ausfuehrlich befragt. Er zaehlte alle Worte, die er angeblich nicht verstand, auf, und die Eidesstattliche Erklaerung wurde unter Weglassung der ihm angeblich unvorstaendlichen Worte abgeaendert. Aber die Eidesstattliche Erklaerung ist selbst nach dem Weglassen dieser Worte vollkommen vorstaendlich und ihre Bedeutung ist in keiner Weise geaendert. (R. 9815-9820). Die von Hoven selbst gemachten deutschen Zusaetze "Fleckfieber Versuchsstation" und "Fleckfieber und Virus Forschung" lassen klar erkennen, dass Hoven wusste, dass Fleckfieber "typhus" bedeutete. (R. 9820-1).

Ausserdem gab er zu, gewusst zu haben, dass diese Eidesstattliche Erklaerung die Fleckfieber-Versuchsstation betraf. Hoven selbst nahm viele Aenderungen in der Eidesstattlichen Erklaerung vor und zeichnete jede Aenderung am Rande mit seinen Anfangsbuchstaben ab. Er versah auch jede Seite mit seinen Anfangsbuchstaben. (R. 9822-3). Das beweist zweifelsfrei, dass Hoven dem Wortlaut der Eidesstattlichen Erklaerung grosse Aufmerksamkeit zuwandte, dass er seine Worte sorgfaeltig abwog und alle Verbesserungen vornahm, die er im Interesse der Vollstaendigkeit und Richtigkeit der Eidesstattlichen Erklaerung fuer noetig hielt. Er gab zu, dass er alle gewuenschten Veraenderungen und Verbesserungen machen durfte. (R. 9823). Die Vernehmungen Hovens vor der Hauptverhandlung - bei einer dieser Vernehmungen wurde die Eidesstattliche Erklaerung von ihm unterzeichnet - (NO-4068, Ankl.Bew.564, R. 10698; NO- 4069, Ankl.Bew. 565, R. 10698), zeigen klar, dass die Erklaerung Hoven laut vorgelesen wurde, dass auf seinen Wunsch verschiedene Aenderungen vorgenommen wurden, dass alle Einzelheiten, die den Gegenstand der Erklaerung bilden, mit Hoven besprochen wurden und dass die Eidesstattliche Erklaerung nichts anderes als eine Zusammenfassung von Hovens eigenen Zugestaendnissen waehrend der Vernehmungen ist. Hoven hatte ausserdem 3 Jahre

in den Vereinigten Staaten zugebracht (NO-591, siehe oben; vergl. Hoven, R. 9914), was an sich schon für einen halbwegs intelligenten Menschen ausreichend sein sollte, um mit der englischen Sprache soweit vertraut zu werden, um eine ihm vorgelesene und von ihm selbst vor der Unterzeichnung sorgfältig durchgelesene schriftliche Erklärung zu verstehen. Es ist klar, dass Hoven bestimmt kein Dokument unterzeichnet und jede Änderung darin mit seinen Anfangsbuchstaben abgezeichnet hätte, wenn er gleichzeitig andere Stellen darin nicht verstanden hätte.

Der Schluss muss gezogen werden, dass die Angaben in seiner Eidesstattlichen Erklärung beträchtlich zuverlässiger als seine Zeugenaussage ist. Die Zugeständnisse in seiner Eidesstattlichen Erklärung wurden ausserdem durch Dokumente und Zeugenaussagen bekräftigt.

Zur Anklage auf Zugehörigkeit zu einer verbrecherischen Organisation, wie sie im Punkt IV der Anklageschrift auseinandergesetzt ist, bringt Hoven vor, dass er zur SS einberufen wurde und dass er seine Stellen als Lagerarzt im Buchenwalder Konzentrationslager und Vertreter von Ding auf Grund militärischer Befehle übernahm. Der internationale Militärgerichtshof erklärte:

"Für verbrecherisch im Sinne des Statuts die Gruppe, die sich aus jenen Personen zusammensetzt, die offiziell als Mitglieder, wie im vorhergehenden Absatz aufgezählt, in die SS aufgenommen waren, Mitglieder der Organisation wurden oder blieben in Kenntnis des Umstandes, dass sie für die Begehung von Handlungen verwendet wurden, die von Artikel 6 des Statuts für verbrecherisch erklärt sind, oder die als Mitglieder der Organisation in die Begehung solcher Verbrechen verwickelt waren, jedoch unter Ausschaltung derer, die vom Staate zur Mitgliedschaft in solcher Weise herangezogen wurden, dass ihnen keine andere Wahl blieb, und die keine solchen Verbrechen begingen."
(Der Prozess gegen die Hauptkriegsverbrecher, Seite 307, Unterstreichungen eingefügt.).

Angenommen, dass Hoven zur Waffen-SS einberufen wurde, so geschah das offensichtlich auf Grund der Tatsache, dass er im Jahre 1934 der allgemeinen SS freiwillig beigetreten war. (Hoven 9763). Wäre er nicht schon ein Mitglied der Allgemeinen SS gewesen, wäre er sicherlich zu einer Einheit der Wehrmacht einberufen worden. Ausserdem deutet nichts daraufhin, dass er

"keine andere Wahl" hatte. Aber selbst wenn wir annehmen, dass er bei seiner Einberufung in die Waffen-SS keine andere Wahl hatte, könnte er im Sinne des Anklagepunktes IV nur dann nicht für schuldig befunden werden, wenn er "keine solchen Verbrechen", nämlich Kriegsverbrechen und Verbrechen gegen die Menschlichkeit, begangen hätte. Die Beweisaufnahme hat zweifelsfrei ergeben, dass er an solchen Verbrechen teilnahm. Seine Entschuldigung findet daher in den Tatsachen keine Begründung.

IV. Schluss

Der Angeklagte Hoven war Mitglied der Allgemeinen und Waffen-SS. Er stieg in der letzteren zum Range eines Hauptsturmführers auf. In seiner Eigenschaft als Lagerarzt des Buchenwalder Konzentrationslagers und Vertreter Dings im Institut für Fleckfieber und Virus-Forschung der Waffen-SS wählte er für die Fleckfieber und die anderen Impfstoffversuche die Versuchspersonen aus. Er überwachte während der häufigen Abwesenheit Dings diese Versuche und führte selbst Infektionsversuche aus. Zahlreiche unfreiwillige Versuchspersonen starben infolge dieser Versuche.

Hoven nahm an dem, in den Konzentrationslagern unter dem Kennwort "Aktion 14 f 13" durchgeführten Euthanasieprogramm dadurch teil, dass er die der Sachverständigenkommission vorzuführenden Häftlinge auswählte, dass er die Namensliste der nach der Bernburger Euthanasiestation zur Tötung durch Gas zu sendenden Opfer aufstellte und dass er gefälschte Totenscheine ausstellte. Außerdem mordete er persönlich Dutzende von Häftlingen durch Phenolinjektionen. Er hatte von dem Massenmord an tuberkulösen Häftlingen in Buchenwald Kenntnis und überwachte ihn.

Um festzustellen, ob an den auf die Einspritzungen mit Gas-Ödem-Serum folgenden Todesfällen der Phenolgehalt schuld sei, tötete er weitere 4-5 Häftlinge von Buchenwald, indem er ihnen Phenol injizierte.

Die Anklagebehörde unterstellt, dass das Beweismaterial ergibt, dass Hoven Haupttäter, Teilnehmer, Anstifter, Vorschubleistender war, seine Zustimmung gab und in Verbindung stand mit Plänen und

Unternehmen, die die Durchführung medizinischer Experimente an lebenden Menschen ohne Zustimmung der Betroffenen zum Gegenstand hatten, in deren Verlauf Morde, Brutaltaten, Grausamkeiten, Folterungen, Greueltaten und andere unmenschliche Handlungen begangen wurden, dass er an dem moerderischen Euthanasieprogramm teilnahm, und dass seine Schuld im Sinne der Punkte I, II, III und IV der Anklageschrift erwiesen ist.

"ENDE"

Ich, Fred Lax X 046207, bestaetige hiermit, dass ich durchaus vertraut mit der englischen und deutschen Sprache bin und dass das Vorstehende eine wahrheitsgemaesse und richtige Uebersetzung des Dokuments "ALDEMAR HOVEN" darstellt.

Nuernberg, 18. August 1947

FRED LAX
X 046207

MILITAERGERICHTSHOF No. I

FALL No.1

ZUSAMMENFASSENDE SCHRIFTSATZ
DER VEREINIGTEN STAATEN VON AMERIKA
GEGEN
JOACHIM FRUGOWSKY

Nuernberg, den
16. Juni 1947

J. M. McHenry
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

fuer:

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War Crimes



EINFUEHRUNG

Unter Punkt I der Anklageschrift wird Joachim Mrugowsky im wesentlichen zur Last gelegt, sich mit anderen Personen im Verfolg eines gemeinsamen Vorhabens zu einer Verschwörung und Uebereinkunft zusammengefunden zu haben, aerztliche Versuche an Versuchspersonen ohne deren Zustimmung vorzunehmen; unter Anklagepunkt II und III (Kriegsverbrechen, bzw. Verbrechen gegen die Menschlichkeit) Haupttaeter, Teilnehmer, Anstifter, Vorschubleistender gewesen zu sein, seine Zustimmung gegeben und mit Plaenen und Unternehmen, bei denen es sich um medizinische Versuche an Versuchspersonen gegen ihren Willen handelte, in Verbindung gestanden zu haben; unter Anklagepunkt IV, nach dem 1. September 1939 ein Mitglied der SS gewesen zu sein, einer Organisation, die vom Internationalen Militaergerichtshof fuer verbrecherisch erklart worden ist.

Die Handlungen, die als Kriegsverbrechen und Verbrechen gegen die Menschlichkeit gelten, sind im Absatz 1 (b) und (c) des Artikels II des Kontrollratgesetzes Nr.10 angefuehrt. Mitgliedschaft in einer vom Internationalen Militaergerichtshof fuer verbrecherisch erklarten Organisation gilt nach Absatz 1 (d) desselben Artikels als Verbrechen. Die Strafbarkeitsmerkmale werden in Absatz 2 des Artikels II des Kontrollratgesetzes Nr.10 aufgefuehrt.

I. STELLUNG UND VERANTWORTUNG

Der Angeklagte Mrugowsky trat der NSDAP im Jahre 1930 und der SS im folgenden Jahre bei. Er war vom Jahre 1933 bis 35 ein aktives Mitglied des SD. Im Jahre 1937 wurde er Hygieniker fuer die SS-Truppen, die spaeter unter dem Namen Waffen-SS bekannt wurden. Er hatte damals den Rang eines SS-Sturm-bannfuhrers (Major). In der Waffen-SS stieg er schliesslich zum Oberfuhrer (Senior Colonel) auf. (NO-723,

Ankl.Bow.29, R.131-2). Im Jahre 1938 wurde Mrugowsky Mitglied des SS-Sanitaetsamtes in Berlin, welches spaeterhin dem SS-Fuehrungshauptamt als Amtsgruppe D angeschlossen wurde. In dieser Eigenschaft gruendete er im Jahre 1939 die Hygienisch-Bakteriologische Untersuchungsstelle. Im Jahre 1940 wurde diese Stelle vergroessert und erhielt den Namen Hygiene-Institut der Waffen-SS. Mrugowsky war der Leiter dieses Institutes und gleichzeitig der Leiter des Amtes XVI (Hygiene) der Amtsgruppe D (Sanitaetsdienst der Waffen-SS) unter Genzken. (Mrugowsky, R.5002-3; NO-416, Ankl.Bow.22, R.121). Alle SS-Aerzte mit bakteriologischer und hygienischer Erfahrung wurden seiner Leitung unterstellt. (Mrugowsky, R.5020-1). Er war der militaerische Vorgesetzte und Kommandant des Hygiene-Institutes der Waffen-SS und aller angeschlossenen Institute, die im Laufe des Krieges gebildet wurden, und hatte volle Machtbefugnis, Befehle zu erlassen. (Mrugowsky, R.5004). Ihm unterstanden alle Fragen der Seuchenkontrolle und Hygiene in der Waffen-SS. (Mrugowsky, R.5004-6). Im September 1943 wurde der Sanitaetsdienst der Waffen-SS reorganisiert. Mrugowsky und das Hygiene-Institut, welche Genzken als dem Chef des Sanitaetsdienstes der Waffen-SS unterstanden, waren hiernach Grawitz als dem Reichsarzt der SS und Polizei unterstellt. Mrugowsky war Leitender Hygieniker (Amt III) unter Grawitz. Er verblieb Leiter des Hygiene-Institutes. Sein Aufgabenkreis wurde bei dieser Reorganisation nicht geaendert. (Mrugowsky, R.5009; NO-723 oben; NO-417, Ankl.Bow.23, R.121). Die Aufgaben des Chefhygienikers bestanden in der Beschaffung von Material, Vorsezung von Personal, der technischen Verwendung des Personals und beruflicher Unterweisung. (Mrugowsky, R.5017).

Die folgenden waren also die verantwortlichen Stellungen des Angeklagten Mrugowsky: Oberfuehrer der Waffen-SS, Chef des Hygiene-Institutes der Waffen-SS, Chef des Amtes XVI des Sanitaetsdienstes der Waffen-SS (Amtsgruppe D) des SS-Fuehrungshauptamtes und Chef des Amtes III und Chefhygieniker unter dem Reichsarzt der SS und Polizei.

II. PERSOENLICHE BETEILIGUNG AN VERBRECHERISCHEN EXPERIMENTEN.

Das Beweismaterial hat klar gezeigt, dass Mrugowsky personlich an Versuchen an Menschen ohne deren Einwilligung, wie sie ihm in der Anklageschrift zur Last gelegt worden, teilgenommen hat.

Mrugowsky wird die besondere Verantwortlichkeit fuer und die Teilnahme an den Hoehen-, Kaelto-, Malaria-, Sulfonamid-, Moorwasser-, Unfruchtbarmachungs-, Fleckfieber-, Gift-, epidemischen Gelbsucht- und Feuerbomben-Versuchen zur Last gelegt. Um die Angelegenheit zu vereinfachen, zieht die Anklagebehoerde die Anklage wegen Teilnahme an Hoehen-, Moorwasser- und Unfruchtbarmachungs-Versuchen zurueck.

A. VERSUCHE IM KONZENTRATIONSLAGER BUCHENWALD

(1) Fleckfieber- und andere Impfstoffversuche (Anklageschrift, Absatz 6 (J)).

Der Angriff auf Russland im Jahre 1941 warf viele militaer-medizinische Probleme auf, von denen Fleckfieber nicht das geringste war. Die Krankheit erreichte im Herbst 1941 ernstlichen Umfang, und die Fleckfieberimpfstoffe waren so knapp, dass nur Aerzte, Krankenpflegerinnen und anderes Sanitaetspersonal in exponierten Stellungen Impfungen erhalten konnten. (Schmidt, R.3160-1).

Eines der wichtigsten Probleme im Zusammenhang mit der gesteigerten Erzeugung von Fleckfieberimpfstoffen war die

Wirksamkeit des sogenannten Cox-Haagen-Gildemeister-Impfstoffes, welcher aus Huhnereikulturen erzeugt wurde. Der wirksame Weigl-Impfstoff, der aus den Eingeweidern von Lausen gemacht wurde, war erhältlich, aber seine Erzeugung war teuer und kompliziert. Der Huhnerei-Impfstoff war verhältnismässig einfach herzustellen, aber seine Vorbeugungseigenschaften wurden als nicht genügend bewiesen angesehen. (NO-732, Ankl.Bew. 451, R.3060).

Der Eintrag in das Ding-Tagebuch vom 29. Dezember 1941 beweist, dass an diesem Tage eine Besprechung zwischen Handloser, als Heeres-sanitätsinspekteur, Conti vom Innenministerium, Ritter vom Amt für Gesundheitswesen, Gildemeister vom Robert-Koch-Institut und Mrugowsky vom Hygiene-Institut der Waffen-SS stattfand. (NO-265, Ankl.Bew.287, R.1134, auf das späterhin als "Ding-Tagebuch" Bezug genommen wird).

Bei der Besprechung wurde beschlossen, dass der Flockflock-Impfstoff aus Huhnereiern an Menschen ausprobiert werden sollte, um seine Wirksamkeit festzustellen. Am selben Tage fand eine frühere Konferenz statt, in welcher dasselbe Problem besprochen wurde. Sie fand im Reichsinnenministerium statt, und die folgenden Herren waren anwesend: Beiber vom Innenministerium, Gildemeister, Vertreter des Generalgouvernements im besetzten Polen, Vertreter der Behring-Werke der I.G. Farben und Oberstabsarzt Scholz der Heeres-sanitätsinspektion. Das Protokoll dieser Besprechung sagt:

"Die Wirksamkeit des Impfstoffes, der zur Zeit von den Behring-Werken aus Huhnereiern erzeugt wird, soll in einem Versuch geprüft werden. Zu diesem Zweck soll Dr. Beiber mit Obersturmführer Dr. Mrugowsky in Verbindung treten."

Da Mrugowsky bei dieser Besprechung nicht anwesend war, ist es offensichtlich, dass andere Besprechungen stattfanden, bei denen diese Angelegenheit mit ihm besprochen wurde, was durch eine Eintragung in dem oben erwähnten Ding-Tagebuch bestaerkt wird.

Als Ergebnis der Entscheidung, die bei diesen Besprechungen getroffen wurde, wurde die Versuchsstation des Konzentrationslagers Buchenwald unter SS-Sturmfuehrer, (später Hauptsturmfuehrer Dr. Ding-Schuler, (später als "Ding" erwähnt) errichtet. (Ding-Tagebuch; Kogon, R.1154). Ausser anderem Beweismaterial zeigen die Tabellen, die von dem Angeklagten Mrugowsky gemacht wurden, dass die Versuchsstation in Buchenwald dem Hygiene-Institut der Waffen-SS unter Mrugowsky vom Tage ihrer Errichtung bis zum Kriegsende unterstand. (NO416, Ankl.Bow. 22; NO-417, Ankl.Bow. 23, R.121).

Zu Beginn des Jahres 1943 wurde die Forschungsstation in Buchenwald offiziell "Abteilung fuer Fleckfieber- und Giftstoff-Forschung" des Hygiene-Institutes der Waffen-SS genannt. Die Versuche wurden im Block 46, dem sogenannten klinischen Block, durchgefuehrt, mit Ausnahme einiger weniger Experimente. Anfang 1942. Im Herbst 1943 wurde eine Impfstoffherstellungsabteilung im Block 50 errichtet. Beide Blocks, 46 und 50, waren ein Teil der Abteilung fuer Fleckfieber- und Giftstoff-Forschung. Der Angeklagte Hoven war Dings Vertreter in beiden Blocks. (Ding-Tagebuch; Kogon, R.1155-6).

Verbrecherische Versuche an Haeftlingen des Konzentrationslagers ohne ihre Einwilligung wurden im Block 46 zur Pruefung von Fleckfieber-, Gelbfieber-, Blattern-, Typhus-, Paratyphus-A und B, Cholera- und Diphtherie-Impfstoffen durchgefuehrt.

Die Fleckfioberschutzzimpfungs-Versuche in Buchenwald wurden in einem sehr grossen Massstabe durchgefuehrt und hatten viele Todesfaelle zur Folge. Die Art der Durchfuehrung und die Ergebnisse dieser Versuche sind in genauen Einzelheiten durch das Ding-Tagebuch und die Zeugenaussage von Kogon sowie durch anderes Beweismaterial nachgewiesen. Der erste Versuch begann am 6. Januar 1942 mit der Schutzimpfung von 135 Gefangenen mit den Weigl, Cox-Haagen-Gildemeister-, "Bohring normal" und "Bohring stark" Impfstoffen. Alle Schutzimpfungen waren am 1. Februar beendet. Am 3. Maerz 1942 wurden alle geimpften Personen und 10 Haeftlinge, die nicht geimpft worden waren (bekannt als "Kontrollgruppe"), kuenstlich mit einem Giftstoff von Rickettsia-Prowazeki, der vom Robert-Koch-Institut zur Verfuegung gestellt worden war, infiziert. Dieser Versuch wurde am 19. April 1942 beendet. Fuenf Todesfaelle waren die Folge, drei in der Kontrollgruppe und zwei unter den geimpften Personen. (Ding-Tagebuch; Mrugowsky Dok. 10, Mrugowsky Beweisstueck 20, R.5087).

Bei spaeteren Versuchen wechselte die Anzahl der Versuchspersonen gewoehnlich zwischen 40 und 60, aber der Prozentsatz der Kontrollpersonen wurde erhoeht. Ungefuehr zwei Drittel der Versuchspersonen wurden geimpft, waehrend einem Drittel kein Schutzmittel gegeben wurde. Einige Wochen nach der Schutzimpfung wurden alle Versuchspersonen kuenstlich mit Fleckfieber infiziert. Der Verlauf der Krankheit wurde dann an den geimpften Personen und bei der Kontrollgruppe beobachtet und die Wirksamkeit der Impfung wurde festgestellt. (Kogon, R.1168). Therapeutische Versuche wurden in derselben Art mit verschiedenen Praeparaten vorgenommen. Zum Beispiel wurden zwischen dem 24. April und 1. Juni 1943 Versuche vorgenommen, um die Wirkung von Akridin-Granulat und Rutenol auf Fleckfieber zu pruefen. Von

einer Gesamtzahl von 39 verwendeten Haeftlingen starben 21. (Ding-Tagebuch, NO-582, Ankl.Bow.286, R.1124-5).

Eine kuenstliche Infizierung wurde auf verschiedene Art erzielt. Zuerst wurde ein Schnitt in die Haut gemacht und mit einer Flockfieberkultur infiziert. Versuchte Lauso wurden in einem begrenzten Ausmass verwendet. Grossenteils jedoch wurde die Infizierung durch intravenoese und intramuskulaere Injektionen von Frischblut, die Flockfiebergiftstoff enthielten, hervorgerufen. Einzig und allein um einen dauernden Vorrat von infiziertem Frischblut zu haben, wurden 3 bis 5 Haeftlinge im Monat kuenstlich mit Flockfieber infiziert. Die Verwendung dieser sogenannten Passagopersonen begann mindestens schon im April 1943 und wurde bis Maerz 1945 fortgesetzt. Im grossen und ganzen starben sie alle. Der Tod dieser Opfer wurde als so selbstverstaendlich angesehen, dass er nicht einmal von Ding in seinem Tagebuch eingetragen wurde. (Kogon, R.1168-71).

Eine Pruefung des Ding'schen Tagebuches zeigt, dass an insgesamt 729 Haeftlingen Versuche mit Flockfieber gemacht wurden, von denen 154 starben. Zu diesen Zahlen muessen die Passagopersonen hinzugefuegt werden, von denen zwischen 90 und 120 starben.

Dies genuege ueber die nackten Zahlen dieser Versuche. Block 46, wo diese Versuche durchgefuehrt wurden, war ein Schreckgespenst fuer jeden Insassen des Konzentrationslagers Buchenwald. Jeder, der fuer diese Versuche ausgewaehlt wurde, erwartete einen langsamen und schrecklichen Tod. Die Uebertragung des Flockfieberbazillus von Mensch zu Mensch erzeugte eine Art "Super"-Flockfieber. (Kogon, R.1168). Waehrend Flockfieber gewoehnlich eine Sterblichkeit von ungefaehr 30% in ungeimpften Faellen zur Folge hat, starben nach einem Versuch am 13. April 1943 fuerf von den sechs infizierten Personen. (Ding-Tagebuch).

Viele der Versuchspersonen fielen in ein Delirium. (Kogon, R.1172-3). Bei den Versuchen mit Akridin und Rutenol erbrachen die Versuchspersonen bis zu sieben Mal am Tage. Bronchopneumonie, Nierenentzündung, Darmblutungen, Unterhautphlegmono unter dem Kehlkopf, Parotitis, Unterschenkelgangraene, Furunkulose, Bronchitis und Dekubitalgeschwüre entstanden als Folge dieser Behandlung. (NO-582, Ankl.Bow.286, R.1124-5). Versuchspersonen, welche dies überlebten und bei welchen die Krankheit leichter verlief, da die Impfstoffe, mit denen sie geimpft worden waren, wirksam waren, wurden dazu gezwungen, den Todeskampf ihrer Mitgefangenen mit anzusehen. Im Block 46 herrschte eiserne Disziplin, die neunschwänzige Katze regierte und die Versuchspersonen wurden des letzten Restes persönlicher Freiheit, die sie im Lager gehabt hatten, beraubt. (Kogon, R.1172-3).

Es ist kaum nötig festzustellen, dass die Versuchspersonen, die fuer die Fleckfieberversuche sowohl als auch wie fuer alle anderen Versuche in Buchenwald verwendet wurden, sich nicht freiwillig dazu gemeldet hatten. Gewöhnlich meldet man sich nicht freiwillig, um getötet zu werden. Bei der ersten Serie der Fleckfieberversuche wurden eine Anzahl von Häftlingen durch Irreführung dazu gebracht, sich dafür herzugeben, da man ihnen sagte, dass dies eine harmlose Angelegenheit sei und dass sie zusätzliche Nahrung bekommen würden. Es wurde ihnen nicht mitgeteilt, dass sie künstlich mit Fleckfieber infiziert werden würden oder dass sie daran sterben könnten. (Kogon, R.1162; vergl. auch die Aussage von Kogon im Fall 4, Militärgerichtshof Nr.II, R.731-2, NO-3680, Ankl.Bow. , R.). Diese Personen können nicht als Freiwillige bezeichnet werden. Nach Beendigung der ersten wenigen Versuche war es nicht mehr möglich, die Häftlinge so zu tauschen, dass sie sich freiwillig fuer diese Versuche hergaben. Von da an bis

ungefähr Herbst 1943 wurden die Versuchspersonen willkürlich unter den Häftlingen ausgesucht, sei es, dass es sich um Verbrecher, politische Gefangene oder Homosexuelle handelte. Intrigen zwischen den Gefangenen selbst spielten manchmal eine Rolle bei der Auswahl. Im Herbst 1943 wollte die Lagerverwaltung nicht mehr länger die Verantwortung für die Auswahl der Versuchspersonen übernehmen. Ding gab sich nicht länger mit mündlichen Befehlen Mrugowskys zur Durchführung der Versuche zufrieden und verlangte schriftliche Befehle. Er trat an Mrugowsky mit dem Ersuchen heran, dass der Reichsführer-SS die Versuchspersonen bestimmen sollte. Gemäss einer Verfügung von Himmler an Nebe von der Reichskriminalpolizei, sollten nur solche Häftlinge verwendet werden, die 10 Jahre oder länger eingesperrt waren. Von da ab bestanden die meisten Versuchspersonen aus Gewohnheitsverbrechern, von denen viele von anderen Lagern nach Buchenwald überstellt wurden. Aber politische Gefangene waren noch immer dabei, da sie in Ungnade bei der Lagerverwaltung standen, oder auch wegen Lagerintrigen. Keine der Versuchspersonen war zum Tode verurteilt gewesen, ausser ein paar russischen Kriegsgefangenen, welche weder vor Gericht gestellt noch abgeurteilt worden waren. Sie waren einige von den 9500 russischen Kriegsgefangenen, die in Buchenwald getötet worden waren. Die Versuchsobjekte waren gewöhnlich in gutem körperlichem Zustand. (Kogon, R.1162-3). Die Versuchspersonen bestanden nicht nur aus Deutschen sondern auch aus Polen, Russen und Franzosen, sowohl als auch aus Kriegsgefangenen. Die Aussage von Kogon bezieht sich nicht nur auf die Fleckfieberversuche sondern auch auf die anderen Versuche in Buchenwald. (Kogon, R.1167).

Die Aussage von Kogon wird durch den Brief Himmlers an den Chef der Sicherheitspolizei vom 27. Februar 1944 bestaetigt. Er lautete;

"Ich bin einverstanden, dass Berufsvorbereiter fuer die Versuche des Fleckfieberimpfstoffes genommen werden. Aus den Berufsvorbereitern sind aber nur solche, die mindestens 10 Jahre Haft gehabt haben, also nicht 10 Verstrafen, sondern 10 Jahre Haft, auszusuchen. SS-Gruppenfuehrer N o b e soll die Zurverfuegungstellung dieser Haeflinge ueberwachen. Ich wuensche nicht, dass der Arzt nur von sich aus ohne Gegenkontrolle aussucht."
(NO-1189, Ankl.Bow.471, R.5440).

Dasselbe Dokument zeigt, dass Krugowsky eine Abschrift dieser Entscheidung ueber die Aenderung des Verfahrens erhalten hatte und dass diese Entscheidung nach einer Besprechung zwischen Krugowsky und Nobe getroffen wurde.

Die Aussage Kogons wird weiter durch den Zeugen Kirchheimer (R.1321-32) und durch die eidesstattliche Erklaerung von Hoven bestaetigt. (NO-429, Ankl.Bow.281, R.1078).

Die Verteidigung hat die Echtheit des Ding'schen Tagebuches bestritten. Es ist unmoeglich, aus dem Protokoll genau zu ersehen, welche Stellung sie in dieser Hinsicht einnimmt. Aus dem Dokument an sich kann man schon klar ersehen, dass es nicht aus Eintragungen besteht, die Tag fuer Tag gemacht wurden. Es ist vielmehr ein Dokument, welches periodisch die Versuche zusammenfasst, die in manchen Faellen mehrere Monate dauerten. Ding fuehrte auch ein Tagebuch mit taeglichen Eintragungen und machte Arbeitsberichte. (Kogon, R.1226). Diese bilden offensichtlich die Grundlage fuer das als Beweismittel vorliegende Tagebuch. Die Verteidigung legte grossen Nachdruck auf die Tatsache, dass die Seite 1 des Tagebuches mit einem aeilteren Farbband als die Seiten 2 und folgende geschrieben wurden und deshalb wahrscheinlich spaeter geschrieben wurden. Die Anklagebehoerde will darueber nicht streiten. Kogon gab die durchaus einleuchtende Erklaerung,

dass die Seite wahrscheinlich neu geschrieben wurde, als die Versuchsstation den Namen "Abteilung fuer Fleckfieber - und Virusforschung " erhielt. (R.1228). Bestenfalls sind die Gruende fuer das Neuschreiben von Seiten jetzt eine Sache reiner Vermutung. Aus dieser Tatsache allein lassen sich keine beweiskraeftigen Schluesse ziehen. Das Ding-Tagebuch wurde von Kogon aus Buchenwald entfernt und war bis zur Auslieferung an den Hauptanklaeger fuer Kriegsverbrechen ausschliesslich in seinem Besitz. Er bezeugte, dass er das Dokument in keiner Hinsicht geaendert hat, und dass die Unterschriften von Ding und Spacter von Schuler echt sind. (R. 1154-6). Er hatte keinen Anlass zur Aenderung des Tagebuches. Die Anklagebehoerde beurkundete, dass das Dokument sich in demselben Zustand wie bei seinem Erhalt befand.

Die Sachverstaendigen der Verteidigung stellten fest, dass das Dokument mit der gleichen Maschine und auf derselben Sorte Papier geschrieben war. (Mrug. Dok.8, Mrug.Bew. , R.). Mrugowsky hat zugegeben, dass sich Dings Unterschrift auf praktisch allen Seiten des Tagebuches befindet. (R.5410). Es wird nicht behauptet, dass sie gefaelscht sind. Ein Vergleich der als echt anerkannten Unterschrift von Ding auf einer Impfkarte (NO-578, Ankl.Bew. 284, R.1105) und von Schuler auf einer von ihm nach dem Kriege abgegebenen eidesstattlichen Erklaerung (NO-257, Ankl.Bew. 263, R.1091) mit den Unterschriften von Ding-Schuler im Tagebuch beweisen, dass die Unterschriften ohne allen Zweifel authentisch sind.

Die Verteidigung hat keine einzige Ungenauigkeit in dem Ding-Tagebuch festgestellt. Andererseits hat die Anklagebehoerde wiederholt durch Vorlage unabhængiger Dokumente, die bis ins einzelne gehende Genauigkeit des Tagebuchs nachgewiesen.

Es duerfte genuegen, einige Beispiele anzufuehren. Der Arbeitsbericht der "Abteilung fuer Fleckfieber- und Virusforschung" fuer das Jahr 1943, der Mrugowsky zugesandt wurde, beweist in jeder Einzelheit die Eintragungen in dem Tagebuch (NO-571, Ankl.Bew. 285, R.1106). Der Aufsatz, den Ding ueber Fleckfieberbehandlung mit Akridinderivaten schrieb und dem von Mrugowsky zugestimmt worden ist, stimmt bis auf den letzten Todesfall mit den Experimenten ueberein, die in dem Tagebuch unter dem 24. April und 1. Juni 1943 eingetragen sind. (NO-582, Ankl.Bew. 286, R.1120). Mrugowskys Schreiben vom 5. Mai 1942 an Conti, Grawitz, Gonzken, Gildemister, Myer und Demnitz ueber einen Fleckfieber-Schutzimpfversuch ist tatsaechlich eine Beschreibung der ersten Versuchsreihe in Buchenwald, wie sie im Tagebuch verzeichnet ist. Dies war ein Dokument, das von der Verteidigung vorgelegt wurde. (Mrug. Dok. 10, Mrug. Bew. 20, R.5087). Mrugowsky hat zugegeben, dass er ueber diesen Versuch berichtet hat. (R.5414). Die Eintragung im Tagebuch vom 19. August 1942 ueber die Erprobung des Bukarester Impfstoffes, den Rose zur Verfuegung gestellt hatte, wird durch Mrugowskys Schreiben an Rose vom 16. Mai 1942, in dem er um den Impfstoff bittet, bestaetigt, (NO-1754, Ankl.Bew. 491, R. 6460). Die Eintragung vom 8. Maerz 1944 ueber Versuche mit dem Ipsen-(Kopenhagen) Impfstoff, die, wie das Tagebuch zeigt, von Rose vorgeschlagen wurden, wird durch Roses Schreiben an Mrugowsky vom 2. Dezember 1943 (NO-1186, Ankl.Bew. 492, R.6463) und durch Lollings Schreiben an Grawitz vom 14. Februar 1944 bestaetigt. (NO-1188, Ankl.Bew. 470, R. 5437; vergl. auch NO-1189, Ankl.Bew. 471, R. 5440). Die Gelbfieber- Impfstoffversuche, die unter dem 10. Januar 1943 im Tagebuch eingetragen sind, werden in einem Schreiben der Behring-Werke an Mrugowsky vom 5. Januar

1943. (NO-1305, Ankl.Bew. 469, R.5426). Die Phosphorbomben-Versuche sind im Ding-Tagebuch unter den Daten vom 19. bis 25. November 1943 verzeichnet. Der Bericht ueber diese Versuche vom 2. Januar 1944 zeigt, dass die Verbrennung der Insassen am 19. November begann und am 25. November 1943 beendet war. (NO-579, Ankl.Bew. 288, R. 1188). Hinsichtlich der im Ding-Tagebuch erwahnten Besprechung vom 29. Dezember 1941 machte Mrugowsky in einem Verhoer in der Voruntersuchung folgende Angaben: "Ich entsinne mich dieser Zusammenkunft, und es faellt mir ein, dass Schreiber, Gildemeister, Ding und ich anwesend waren". Waehrend der oeffentlichen Verhandlung hat Mrugowsky zugegeben, eine derartige Aussage gemacht zu haben (R.5380).

Die obige Untersuchung ueber Echtheit und Genauigkeit des Ding-Tagebuchs duerfte, obwohl sie nicht erschoeppend ist, genuegen, um zu beweisen, dass die Einwaende der Verteidigung gegen dieses Dokument voellig gegenstandslos sind. Es gibt kaum eine Zeile in dem ganzen Tagebuch, die nicht entweder durch Dokumente oder durch Zeugenaussagen bestaetigt worden ist. Das Tagebuch muss in seiner Gaenze als zutreffend angenommen werden. Es ist voellig unbegrueendet, die Richtigkeit einiger Eintragungen anzunehmen und die Richtigkeit anderer abzulehnen. Die Verteidigung hat keinen glaubwuerdigen Beweis fuer irgendeine Ungenauigkeit beigebracht. Der vorhandene Bericht des verstorbenen Ding ist der beste Beweis fuer das, was tatsaechlich geschehen ist.

Andere Impfstoffversuche wurden in der Versuchsstation in Buchenwald durchgefuehrt. Auf Ersuchen der Heeres-Sanitaetsinspektion wurde Gelbfieber-Impfstoff, der einen virulenten Virus enthielt, in einem Grossversuch an Insassen, der am 10. Januar ¹⁹⁴³ begann, erprobt. Die erforderlichen Vorbereitungen wurden von Schreiber mit Hilfe des Angeklagten Mrugowsky getroffen.

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(NO-1305, Ankl.Bew. 469, R.5426). Eine sehr grosse Zahl von Haeftlingen wurde zwischen dem 13. Januar und dem 17. Mai 1943 geimpft, zu welcher Zeit die Erzeugung von Gelbfieber-Impfstoff auf Grund der militaerischen Lage in Nordafrika eingestellt wurde. Die Ergebnisse dieser Impfungen wurden an Amt XVI des SS-Fuehrungsstabes, welches das Gesundheitsamt unter Mrugowsky war, und an die Heeres-Sanitaetsinspektion gesandt (Ding-Tagebuch).

Anfang 1943 hatte Mrugowsky Besprechungen mit Handloser ueber Massenimpfungen (Handloser, R.3064). Es kann kein Zweifel sein, dass dies der Grund war fuer die umfangreichen Impfungsversuche an 45 Haeftlingen von Buchenwald zwischen dem 24. Maerz und dem 20. Maerz 1943, wie sie im Tagebuch Dings verzeichnet sind. Jede Person wurde an acht verschiedenen Tagen innerhalb vier Wochen gegen Pocken, Typhus, Flecktyphus, Paratyphus A und B, Cholera und Diphtherie geimpft. Die Ergebnisse dieser Impfungen wurden an Mrugowskys Amt gesandt. Kogen hat ausgesagt, dass den Versuchspersonen Paratyphusbazillen im Kartoffelsalat gegeben wurde. Er hat weiter ausgesagt, dass die Versuche mit anderen Krankheiten als Flecktyphus in Buchenwald, wenn auch in geringerem Umfange, Todesfaelle zur Folge hatten. (Kogen, R.1182-3).

Mrugowsky wollte das Gericht glauben machen, dass er fuer die im Konzentrationslager Buchenwald von Ding und Koven durchgefuehrten Versuche keineswegs verantwortlich sei. Er hat hierzu ausgesagt, dass Ding, soweit es sich um die Versuche handelte, Grawitz unmittelbar unterstellt war. (Mrugowsky R.5067). Waehrend er zugab, dass Ding ihm hinsichtlich der Impfstofferzeugung in

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Block 50 in Buchenwald unterstellt war, sagte er, er habe mit den in Block 46 durchgefuehrten Versuchen nicht das geringste zu tun gehabt. Dieselbe Behauptung wurde von dem Angeklagten Genzken aufgestellt. Mrugowsky hat ausgesagt, dass er entsetzt war bei dem Gedanken, Versuche an Menschen vorzunehmen, da er der Ansicht war, dass das Menschenleben heilig sei. (R.5066).

Es liegt aber ueberwaeltigendes Beweismaterial dafuer vor, dass Mrugowsky die Weisungen zu den von Ding in Buchenwald durchgefuehrten Versuchen gegeben hat. In seiner eigenen eidesstattlichen Erklaerung in der Voruntersuchung hat Mrugowsky ausgesagt, dass das Amt fuer Fleckfieber- und Virusforschung des Hygiene-Instituts der Waffen-SS anfangs 1942 von Genzken in Buchenwald eingerichtet wurde. Er hat zugegeben, dass er als Chef des Amtes XVI (Hygiene) des SS-Fuehrungsstabes und als Chef des Hygiene-Instituts der Waffen-SS der unmittelbare Vorgesetzte von Ding war. Er hat ferner ausgesagt, dass Versuche an Haeftlingen von Ding durchgefuehrt worden sind, um die Wirkungen der verschiedenen Fleckfieber-Impfstoffe zu bestimmen. Er hat zugegeben, dass er vollkommen ueber die Arbeiten Dings unterrichtet war, dass er von ihm Berichte ueber die Versuche erhielt, einschliesslich der Zahl der Todesfaelle, und dass er Genzken unterrichtet hat. (NO-423, Ankl.Bew.282, R.1087). Die zwei von dem Angeklagten Mrugowsky gezeichneten Tafeln zeigen deutlich, dass die Versuchstation in Buchenwald unter Ding von ihrer Einrichtung bis zum Zusammenbruch Deutschlands Mrugowsky direkt unterstellt war. (NO-416, Ankl.Bew.22; NO-417, Ankl.Bew. 23, R.121). Im kreuzverhoer hat Mrugowsky die Verbindung zwischen Ding und dem Hygiene-Institut der Waffen-SS zugegeben. (R.5371).

Die in der Voruntersuchung abgegebene eidesstattliche Erklaerung des Angeklagten Hoven.

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der Dings Stellvertreter und sicherlich in der Lage war, die Tatsachen zu kennen, besagt, dass das Hygiene-Institut der Waffen-SS unter Mrugowsky alle Berichte ueber die Versuche in Block 46 erhielt, und dass Ding Befehle direkt von Mrugowsky erhielt. Nach Hovens Angaben war die Reihenfolge der Befehlsgewalt: Grawitz, Genzken, Mrugowsky, Ding. Fast alle 14 Tage fuhr Ding zu Besprechungen mit Mrugowsky nach Berlin. Auf einer seiner Reisen nach Buchenwald machte Mrugowsky einen Besuch in der Wohnung Dings (NO-429, Ankl.Bew. 281, R.1076).

Kogon hat bezeugt, dass Ding ueber seine Versuche Mrugowsky persoenlich berichtete, und dass er, wenn er nicht selbst nach Berlin fuhr, regelmaessig alle drei Monate schriftliche Berichte sandte. (R.1186,1155). Die Berichte ueber die Versuche in Block 46 wurden Mrugowsky nach Berlin uebersandt. (R.1160). Dings dienstlicher Schriftwechsel fand hauptsaechlich mit Mrugowsky statt (R.1157). Die Anweisungen fuer die Ausfuehrung der Versuche kamen von Mrugowsky. (R.1163,1219). Im Spaetsommer 1943 wurde Mrugowsky der alleinige Vorgesetzte von Ding, und alle Anweisungen an diesen wurden von ihm erteilt. (R.1202). Mrugowsky bekleidete eine so wichtige Stellung, dass es fuer Ding gefaehrlich gewesen waere, ueber seinen Kopf hinweg sich an Grawitz zu wenden (R.1241). Verschiedene Male hat Mrugowsky den Versuchsblock in Buchenwald besucht. (Kogon, R.1244-5; Kirchheimer, R.1329).

Die oben angefuehrten Beweise fuer Mrugowskys Verantwortlichkeit sind wiederholt durch dokumentarisches Beweismaterial erhaertet worden. Dings Arbeitsbericht fuer das Jahr 1943, der die in Block 46 durchgefuehrten Versuche listenmaessig darstellt, wurde Mrugowsky zugesandt

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und trug den Briefkopf: "Hygiene-Institut der Waffen-SS, Abteilung fuer Fleckfieber-und Virusforschung, Weimar, Buchenwald". (No-571, Ankl.Bew. 285, .R. 1109). Dieser Arbeitsbericht umfasst sowohl die Versuche in Block 46 als auch die Impfstoffherstellung in Block 50, was den endgueltigen Beweis liefert, dass Mrugowskys Behauptung, seine Verantwortlichkeit erstrecke sich nur auf Block 50, falsch ist. Derselbe Bericht zeigt auf, dass Mrugowsky am 3. September 1943 die Abteilung fuer Fleckfieber-und Virusforschung in Buchenwald besichtigte, und dass Ding verschiedene Unterredungen mit Mrugowsky gehabt hat. Mrugowskys eigener Sekretar hat zugegeben, dass Dings Berichte ueber seine Versuche an Haeftlingen ueber das Hygiene-Institut der Waffen-SS an Grawitz gegangen sind. (Mrugowsky, Ankl.Bew. 13, R. 5046).

Mrugowsky hat Dings Bericht ueber die Behandlung von Fleckfieber mit Akridinderivaten erhalten. (NO-582, Ankl. Bew. 286, R. 1122). Dieser Bericht spricht von klinischen Versuchen an Menschen, die an Fleckfieber erkrankt waren, aber Mrugowsky wusste, dass Ding mit kunstlicher Infizierung seiner Versuchsobjekte experimentierte. (Mrugowsky, R. 5066). Der Bericht zeigt auf, dass 21 der Versuchspersonen starben und dass die ueberlebenden Haeftlinge mit schweren Komplikationen der Krankheit zu kaempfen hatten. Dieselbe Versuchsreihe ist in Dings Tagebuch unter den Daten vom 24. April und 1. Juni 1943 verzeichnet.

Die erste in Buchenwald zwischen dem 6. Januar und 19. April 1942 durchgefuehrte Versuchsreihe, in der 145 Insassen als Versuchspersonen gebraucht wurden, war die Grundlage eines Berichtes von Mrugowsky an Conti, Grawitz,

Genzken, Eyer und Demnitz, datiert vom 5. Mai 1942 (Mrug. Dok. 10, Mrug. Bew. 20, R. 5087). Fuenf Versuchspersonen starben als Ergebnis dieser Versuche (Ding-Tagebuch).

Die in Dings Tagebuch unter dem 19. August 1942 aufzeichneten Versuche mit dem Cantacuzino-Impfstoff aus Bukarest, waren von Mrugowsky angeordnet worden. Dieser Impfstoff war von dem Angeklagten Rose zur Verfügung gestellt worden, der Mrugowsky gebeten hatte, diese Versuche in die Wege zu leiten. Am 16. Mai ¹⁹⁴² teilte Mrugowsky Rose schriftlich mit, dass Grawitz der Durchführung der Versuche zugestimmt habe, und dass der Impfstoff ihm (Mrugowsky) uebersandt werden solle. Er war auch damit einverstanden, durch Versuche festzustellen, ob die Laus durch geimpfte Fleckfieberpatienten infiziert werden koenne. Selbstverstaendlich machte dies die Infizierung der Versuchspersonen mit Fleckfieber erforderlich. (NO-1794, Ankl. Bew. 491, R. 6460). Als Resultat dieser Versuche starben vier der Versuchspersonen. (Ding-Tagebuch).

Die Fleckfieberversuchsreihe Nr. VIII, in der Ipsen-Impfstoff aus Kopenhagen erprobt wurde, ist ebenfalls von dem Angeklagten Mrugowsky angeordnet worden. Am 2. Dezember 1943 wurde Mrugowsky von Rose um die Durchführung von Ipsen-Impfstofferprobungen in Dings Buchenwalder Versuchsstation gebeten. (NO-1186, Ankl. Bew. 492, R. 7473). Im Kreuzverhoer hat Mrugowsky ausdruecklich in Abrede gestellt, dass er jemals von Rose um die Erprobung des Kopenhagener Impfstoffs angegangen worden sei. Er hat ausgesagt: "Waere er zu mir gekommen, wuerde ich ihm an jemand anderen verwiesen haben. Ich wuerde ihm gesagt haben: Mein **Bester**, da habe ich garnichts zu tun." (R. 5434-5). Am 21. Februar 1944 wurde Mrugowsky davon in Kenntnis gesetzt, dass 30 "geeignete Zigeuner" fuer die Erprobung des Ipsen Impfstoffs verfuegbar gemacht wuerden.

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(NO-1188, Ankl.Bew. 470, R.5437). Am 29.Februar 1944 wurde Mrugowsky weiter benachrichtigt, dass die Versuchspersonen durch die Dienststelle von Nebe von der Reichskriminalpolizei bestimmt werden wuerden. (NO-1189, Ankl.Bew. 471, R.5440). Das Tagebuch Dings beweist, dass die Versuche mit dem Ipsen-Impfstoff am 8.Maerz 1944 an 30 Personen begann^{en}, von denen 6 an den Folgen der Versuche starben.

Am 12.August 1944 wies der Angeklagte Mrugowsky Ding an, Versuche durchzufuehren, um festzustellen, in wie weit sich der infizierende Charakter des Blutes leichterer Fleckfieberfaelle im Vergleich zu den schweren Faellen unterscheidet. (NO-1197, Ankl.Bew. 472, R. 5451).

Mrugowsky ordnete eine Versuchsreihe an zur Feststellung, ob der Verlauf der Fleckfiebererkrankung durch intravinoese oder intramuskulaere Einspritzungen von Fleckfieberimpfstoff beeinflusst werden koenne. Von den verwendeten 25 Versuchspersonen starben 19. Dieser Versuch wurde zwischen dem 11. November und 22. Dezember 1944 durchgefuehrt. (Dings Tagebuch).

In Abetracht des oben angefuehrten Beweismaterials ist es vollkommen klar, dass alle von Ding in Buchenwald durchgefuehrten Versuche gemaess den Befehlen und Anordnungen des Angeklagten Mrugowsky durchgefuehrt worden sind.

(2) Versuche mit Giften (Anklageschrift, Ziffer 6 (K)).

Versuche mit Giftstoffen wurden in den Konzentrationslagern Buchenwald und Sachsenhausen auf Anordnung des Angeklagten Mrugowsky durchgeführt. (Kogon, R.1183-6). Die erste Versuchsreihe wurde im Dezember 1943 durchgeführt, um die tödliche Giftdosis der Alkaloid-Gruppe festzustellen. Die Durchführung dieser Versuche war von dem SS-Richter Morgen erbeten worden, der in der Strafsache gegen Koch, den Lagerkommandanten von Buchenwald, und gegen den Angeklagten Heyen die Untersuchung führte. Heyen stand unter dem Verdacht, einen Zeugen gegen Koch und ihn selbst mit Hilfe von Gift getötet zu haben. Vier russische Kriegsgefangene wurden von Ding zu den Versuchen verwendet. Das Gift wurde der Nahrung der Versuchspersonen ohne deren Wissen beigelegt. Alle vier kamen mit dem Leben davon, wurden jedoch in einem Verbrennungsraum des K.Z. erschossen, damit Obduktionen an ihnen vorgenommen werden konnten. (Kogon, R.1183-4; Tagebuch Ding). Da Ding Mrugowsky unterstand, konnte dieser Versuch nicht ohne Mrugowskys Zustimmung von Ding durchgeführt worden sein.

Am 11. September 1944 führten Mrugowsky und Ding einen Versuch mit Aconitin-Nitrat-Geschossen im K.Z. Sachsenhausen durch. Die Geschosse waren mit kristallisierten Gift gefüllt, und fünf Versuchspersonen wurden diese Kugeln in den linken Oberschenkel geschossen. In zwei Fällen konnte keine Wirkung des Giftes beobachtet werden. In den übrigen drei Fällen litten die Versuchspersonen in schrecklicher Weise. Alle drei starben nach einem etwa 2 stündigen Todeskampf. Die in dem Versuch verwendeten vergifteten Kugeln waren angeblich russischer Herkunft. (NO-201, Ankl.Bew.290, R. 1303-4)

Die Versuchspersonen waren russische Kriegsgefangene. (Kogon, R.1186; siehe auch Kogons Zeugenaussage in Strafsache 4, Militärgericht II, R.733, NO-3680, Ankl.Bew. ...)

Krugowsky gab seine Beteiligung an diesen Versuchen zu. Er rechtfertigte sich damit, dass er in diesen Falle der gesetzlich bestimmte Scharfrichter gewesen wäre. Selbst wenn man die Wahrheit dieser absurden Erklärung unterstellt, so kann es doch nicht als gesetzmässig angesehen werden, Kriegsgefangene zu Tode zu martern, selbst wenn sie rechtsgültig zum Tode verurteilt worden wären.

Am 26. Oktober 1944 wurde von Ding ein weiterer Giftversuch in Buchenwald durchgeführt. Die Eintragung in Dings Tagebuch unter diesem Datum besagt: "Sonderversuche an sechs Personen gemäss Weisung von SS Oberführer Dozent Dr. Krugowsky und R.P.L. (Bericht darüber mündlich)." Kogon bezogte, dass Ding ihm gesagt habe, dass die bei dem Versuch verwendeten russischen Kriegsgefangenen nach kurzer Zeit starben. Sie wurden später seziert und verbrannt. Ding berichtete an Krugowsky mündlich. Diese Versuche standen mit den im K.Z. Sachsenhausen durchgeführten Versuchen mit vergifteten Geschossen in Verbindung. (Kogon, R. 1185-6).

(3) Versuche mit Brandbomben. (Anklageschrift, Ziffer 6)

Im November 1943 erteilte Krugowsky Ding den Befehl, das Präparat "R 17" bei frischen Phosphorverbrennungen und die "Echinacinsalbe" und "Echinacin extern" zur Nachbehandlung solcher Brandwunden zu erproben. Fünf Versuchspersonen, die früher zu Fleckfieberversuchen verwendet worden waren, wurden absichtlich mit einer brennenden, phosphorhaltigen Flüssigkeit übergossen, die einer Brandbombe entnommen wurde. Die sich ergebenden Brandwunden waren sehr schwerer Art, wie aus dem Bildbericht über diese Versuche ^{er}sehen werden kann. (NO-579, Ankl. Bew. 288, R. 1188). Die Opfer/litten qualvollste Schmerzen und dauernden Schaden. (Kogon R. 1187-90. NO-579, Ankl. Bew. 288, R. 1188; Dings Tagebuch).

(4) Versuche mit Alt-Blutplasma und die Herstellung von Blutplasma und Fleckfieber-Serum.

Versuche mit Alt-Blutplasma wurden auf Ersuchen der Militärärztlichen Akademie an Häftlingen in Buchenwald auf Befehl Krugowskys durchgeführt. Bluttransfusionen wurden ausgeführt

um festzustellen, ob dieses Alt-Blutplasma ohne Gefahr verwendet werden könne, insbesondere ohne Schockgefahr. Mehrere Versuchsreihen wurden durchgeführt, jede mit 10 bis 20 Versuchspersonen. Einige der Opfer starben, wahrscheinlich infolge der vereinten Wirkung von Schock und schwacher, körperlicher Verfassung. Mrugowsky erhielt Bericht ueber diese Versuche. (Kogon, R.1190-2; Dings Tagebuch, Eintragungen zwischen 21. Dezember 1943 und 16. Juni 1944).

Die Eintragung^{en} vom 26. Mai und 13. Oktober 1944 in Dings Tagebuch zeigen, dass vom Fleckfieber genesenden Häftlingen Blut entnommen wurde, zur Herstellung eines Fleckfieber-Genesungs-Serums. Der Zeuge Kogon gibt an, dass diese Arbeit durch SS-Hauptsturmführer Dr. Ellenbock auf Befehl Mrugowskys ausgeführt wurde. Ellenbeck entnahm das Blut vom Sommer 1944 bis Frühjahr 1945 von Fleckfieber-Rekonvaleszenten in Block 46. Das Blut wurde diesen Versuchspersonen regelmässig entnommen, gewöhnlich in Mengen zwischen 250 und 350 ccm. Die Blutentnahme bedeutete für die Genesenden eine aussergewöhnliche Belastung, und eine Anzahl von ihnen starb. Wenn auch die genaue Todesursache unter diesen Umständen nicht mit Sicherheit festzustellen war, besteht doch kein Zweifel, dass die Blutentnahme dazu beitrug. (Kogon, R.1192-3)

Kogon bezeugte weiterhin, dass Ellenbeck auf Mrugowskys Anordnungen hin für die zur Herstellung des Blutplasmas dienenden Blutentnahmen systematisch Invaliden und alte Personen auswählte, besonders Franzosen, die sich in dem sogenannten "Kleinen Lager" von Buchenwald befanden. Die schrecklichen Zustände im "Kleinen Lager" wurden anschaulich geschildert. Das Blut wurde von den Opfern gefordert und genommen. Manchmal wurde diesen, dem Hungertode ausgelieferten Patienten, zusätzliche Nahrung gegeben. (Kogon, R.1194-6). Auf die Frage, ob irgendwelche dieser Blutspender in dem "Kleinen Lager" von Buchenwald auf Grund dieser Blutabnahme

Starben, gab Kogon zur Antwort:

"Die Frage zeigt, dass es sehr schwer ist, sich einen richtigen Begriff vom Kleinen Lager in Buchenwald zu machen. Die Leute sind dort in Massen gestorben. Die Leichen lagen in der Nacht nackt vor den Blocks, weil sie von den uebrigen Insassen aus den Kojen herausgezerrt wurden, um sich mehr Platz zu verschaffen. Jedes kleinste Kleidungsstueck wurde ihnen weggerissen von den uebrigen, die ueberleben wollten. Es ist unmoeglich, festzustellen, ob an der Blutentnahme direkt und unmittelbar jemand gestorben ist, denn die Leute fielen vielfach unterwegs im Kleinen Lager um und waren tot. Aber es steht fuer jeden, der die Verhaeltnisse dort gekannt hat, ausser jeden Zweifel, dass die Blutentnahmen, wenn sie auch einen momentanen geringfuegigen Essensvorteil den Leuten brachten, bei vielen zum Tode wesentlich beigetragen haben." (Kogon, R.1196).

Ellenbeck beschaeftigte sich auch mit Forschungsarbeiten ueber den Sauerstoffgehalt des Blutes von Menschen in verschiedenen Stadien der Erschoepfung und ueber kuenstlich hervorgerufene Hungeroedeme. Mrugowsky gab seine Zustimmung zu diesen Versuchen. (Kogon, R.1257-66).

(5) Die Versuche mit Gas-Oedem-Serum.

Die eidesstattliche Erklaerung von Dr. Erwin Schuler, alias Ding, besagt, dass eines der behandelten Themen in einer Konferenz in der Militaerärztlichen Akademie in Berlin Ende 1942 die toedliche Wirkung von Gas-Oedem-Serum bei verwundeten Soldaten war. Die eidesstattliche Erklaerung gibt weiter an, dass sich unter den Teilnehmern an dieser Besprechung Killian, General Schreiber, Mrugowsky und ein ihm unbekannter Sanitaetsoffizier befanden. Killian und Mrugowsky berichteten ueber Soldaten, die das Serum in starken Dosen verabreicht erhalten hatten und einige Stunden spaeter nach augenscheinlicher Besserung ploetzlich ohne ersichtlichen Grund starben. Es bestand der Verdacht, dass der Phenol-Gehalt des Serums

den Tod herbeigeführt hatte. In Gegenwart von Killian und Schreiber gab Mrugowsky an Ding den Befehl, an der mittels Phenol durchgeführten Euthanasie an einem K.Z. Insassen teilzunehmen und das Ergebnis im Einzelnen zu beschreiben. Ding war später in K.Z. Buchenwald Zeuge der Hinrichtung von vier oder fünf Personen durch Phenol-Einspritzungen, die von dem Angeklagten Hoven vorgenommen wurden. Befehlsgemäss berichtete Ding ueber seinen Befund nach Berlin. (NO-257, Ankl.Bew. 283, R. 1091)

Mrugowsky bestritt, je einen solchen Befehl an Ding gegeben zu haben. Es ist jedoch offensichtlich, dass Ding-Schuler, der sich zur Zeit der Abgabe der eidesstattlichen Erklärung in Haft befand, sich nicht selbst wegen eines Verbrechens belastet haben würde, das nicht stattgefunden hat. Mrugowskys fortgesetztes Interesse an der Wirkung des phenolhaltigen Serums wird durch ein Schreiben bewiesen, das Grawitz am 24. August 1944 an ihn gerichtet hatte. Grawitz führte aus, dass der Reichsführer SS die von Mrugowsky vorgeschlagenen Versuche über die Verträglichkeit des phenolhaltigen Serums genehmigt hätte. (NO-1198, Ankl.Bew. 466, R.5300).

B. Weitere Experimente

(6) Kälte-Versuche (Anklageschrift, Ziffer 6 (B))

Die grausamen und moerderischen Kälte-Versuche in Dachau bildeten den Gegenstand eines freimütigen Berichts von Holzloehner, der mit Rascher und Finke diese Versuche durchführte. Dieser Vortrag wurde anlässlich einer Konferenz gehalten, die am 26. und 27. Oktober 1942 in Nürnberg stattfand, wie aus dem schriftlichen Bericht über diese Tagung hervorgeht. (NO-401, Ankl.Bew.93,R.309). Holzloehners Bericht verursachte eine Art Sensation, da deutlich aus ihm hervorging, dass man K.Z. Häftlinge als Versuchspersonen verwendet hatte und dass einige von ihnen gestorben waren (Lutz,R.272).

SS Obersturmführer Murthum wurde von Mrugowsky als Vertreter des Hygienischen Instituts der Waffen-SS zu dieser Tagung entsandt,

und er berichtete Mrugowsky über die Sitzung. (Mrugowsky, R.5038; NO-401, siehe oben). Überdies verhandelte Mrugowsky einige Tage vorher, am 21. Oktober 1942, mit Sievers über die Zusammenarbeit zwischen dem Hygienischen Institut der Waffen-SS und Rascher bezüglich der Kälte-Versuche. Ein weiteres Zusammentreffen fand am 20. November 1942 statt. (NO-647, Ankl.Bew. 124, R. 383). Mrugowsky gab zu, mit Sievers in diesem Zusammenhang gesprochen zu haben. (Mrugowsky, R.5040)

(7) Malaria-Versuche (Anklageschrift, Ziffer 6 (C))

Was die Beschreibung und den verbrecherischen Charakter dieser Versuche anbetrifft, so wird auf den Schriftsatz der Anklagevertretung gegen den Angeklagten Rose verwiesen. Mrugowsky gab zu, durch Grawitz über Schillings Versuche in Dachau unterrichtet worden zu sein. Er gab auch zu, sich ziemlich eingehend mit Malaria-Fragen beschäftigt zu haben. (Mrugowsky, R.5043). Er sagte, dass er nicht in der Lage gewesen wäre, sich in die Versuche Schillings einzumischen, da er sich zu der Zeit, als er durch Grawitz informiert wurde, noch im SS-Führungsstab befunden habe. Als er zu Grawitz's Stab kam und Oberster Hygieniker wurde, habe er, wie er sagte, nicht gewusst, dass Schilling nur noch mit seinen Versuchen beschäftigt war. (Mrugowsky, R.5396). Schilling führt seine Versuche bis 1945 fort. Über 1.000 Insassen wurden diesen Versuchen unterzogen, und mehrere hundert starben an den Folgen. (NO-856, Ankl.Bew.125, R.592). Es ist ^{un}möglich, dass Mrugowsky zwei Jahre lang in Unkenntnis über Versuche bleiben konnte, die in einem solch grossen Massstabe durchgeführt wurden, insbesondere da diese Versuche der Seuchenbekämpfung galten, seinem eigenen Arbeitsbereich.

(8) Sulfonamid-Versuche (Anklageschrift, Ziffer 6 (E))

Was die Beschreibung und den verbrecherischen Charakter dieser Versuche betrifft, so wird auf den Schriftsatz der Anklagevertretung gegen den Angeklagten Gebhardt verwiesen. Mrugowsky half bei diesen Versuchen und ermutigte dazu. Er

stellte Gebhardt seinen Stab und seine Apparate für die Durchführung der Versuche zur Verfügung, eine Tatsache, die Gebhardt in seinem vorläufigen Bericht vom 29. August 1942 über die Sulfonamidversuche selbst erwähnt. Derselbe Bericht beweist, dass Mrugowsky das Infektionsmaterial für die Versuche zur Verfügung stellte und Ratschläge darüber erteilte, wie man die Infektion der Versuchspersonen wirksamer gestalten könne. (NO-2734, Ankl.Bew. 473 als Kennzeichnungsnummer, R.5622). Der Angeklagte Fischer beschreibt in seiner eidesstattlichen Erklärung ebenfalls die Rolle, die Mrugowsky und das Hygiene-Institut spielten. Als nach den ersten beiden Sulfonamid-Versuchsreihen keine ernsthaften Infektionen auftraten, entschied man sich auf Vorschlag Mrugowskys dafür, die Art der Bakterienkultur zu ändern und eine stärkere Kultur als bei den früheren Versuchsreihen anzuwenden. Mrugowskys Institut stellte die neuen Brandkulturen extra für die Versuche her. Da die als Ergebnis dieser Versuchsreihen erzielten Infektionen nicht den Wundbrandinfektionen an der Front entsprachen, wurde das Hygiene-Institut der Waffen-SS, Mrugowskys Amt, erneut zu Rate gezogen, um zu bestimmen, welche Massnahmen zu ergreifen seien, um Wundinfektionen herbeizuführen, die mehr den Bedingungen an der Front entsprachen. Es war auf Vorschlag von Mrugowskys Amt, dass sich Gebhardt und Fischer dazu entschlossen, den Eiterien-Kulturen Holzsplitter und Glas beizumengen, um die auf dem Kampffelde übliche Schmutzkruste der Wunden nachzuahmen. (NO-228, Ankl. Bew. 206, R. 768-9,771). Dieses Beweismaterial wird durch die eidesstattlichen Erklärungen der Lagerärzte Rosenthal und Schiedlausky erhärtet (NO-858, Ankl.Bew.223, R. 889; NO-508, Ankl.Bew.224, R. 893).

(9) Epidemische Gelbsucht (Anklageschrift, Ziffer 6 (H))

Mrugowsky bestritt auf dem Zeugensstand, jemals Kenntnis von Epidemischen-Gelbsucht Versuchen (Hepatitis opedemica) in Konzentrationslagern gehabt oder damit in Verbindung gestanden zu haben. (Mrugowsky, R.5052). Er bestritt,

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über diesen Gegenstand mit Schreiber, dem Bevollmächtigten für Seuchenbekämpfung im Reichsforschungsrat, Besprechungen geführt zu haben. Er sagte, dass Schreiber ihn niemals er- sucht habe, Versuchspersonen für Gelbsucht-Forschungen zur Verfügung zu stellen. (Mrugowsky, R. 5398-9). Aber die Beweis- aufnahme hat ergeben, dass Mrugowsky volle Kenntnis von diesen Versuchen hatte und dass er - ermutigt durch Schrei- ber - der Durchführung solcher Versuche im K.Z. Buchenwald zustimmte. Er schrieb am 29. Januar 1945 an den Reichsarzt SS Grawitz wie folgt:

"Der Direktor des Hygienischen Institutes der Universi- tät Leipzig, SS-Hauptsturmführer Professor Dr. Dresel, hat aus Hepatitis - Kranken ein Virus gezüchtet und konnte es in zahlreichen Tierpassagen übertragen. Zum Beweis, dass es sich um das wirksame Virus der Hepatiti- epidemica handelt, sind Versuche an Menschen erforderli-

Der Bevollmächtigte für Seuchenforschung im Reichsfor- schungsrat wendet sich daher mit der Bitte um Anstel- lung dieser Versuche an mich .

Ich bitte beim Reichsführer - SS die Genehmigung zu erwirken, die notwendigen Übertragungsversuche an 20 geeigneten Häftlingen, welche bisher noch nicht an Hepatitis epidemica erkrankt waren, in der Fleckfieber- Versuchsstation des KL. Buchenwald durchführen zu können." (NO-1313, Ankl.Bew. 467, R.5400).

(10) Bakterien-Kriegsführung.

Als der Angeklagte Blome seine verbrecherische Tätig- keit im Zusammenhang mit der Vorbereitung des Bakterien- Krieges aufnahm, (siehe Schriftsatz der Anklagevertretung gegen den Angeklagten Blome), trat er zwecks technischer Un- terstützung in dieser Sache an Mrugowsky heran. Mrugowsky machte eine Zusammenstellung des wichtigsten wissenschaft- lichen Materials über diesen Gegenstand für Blome. Grawitz betrachtete die Angelegenheit als so wichtig, dass er am 1. August 1944 eine Abschrift an Himmler sandte. (NO-114, Ankl.Bew. 324, R. 1481)

III. Schluss

Mrugowsky nahm an der Konferenz vom 29. Dezember 1941 teil,

bei welcher die Entscheidung darüber getroffen wurde, Fleckfieber-Impfstoffe durch künstliche Infektionsversuche an Konzentrationslagerhäftlingen zu erproben. Die in Buchenwald unter Ding errichtete Versuchsstation war Mrugowsky als dem Leiter des Hygiene-Instituts der Waffen-SS direkt unterstellt. Die Befehle für die von Ding durchgeführten Versuche kamen von Mrugowsky. Er erhielt über alle diese Versuche ins Einzelne gehende Berichte. Etwa 250 Häftlinge wurden als Ergebnis der Fleckfieber-Versuche getötet.

Mrugowsky genehmigte im Dezember 1943 Versuche mit Giftstoffen, die von Ding an vier russischen Kriegsgefangenen in Buchenwald durchgeführt wurden. Im September 1944 nahm er persönlich an der mit vergifteter Munition vorgenommenen Erschiessung von fünf russischen Kriegsgefangenen in Sachsenhausen teil. Im Oktober 1944 gab er Ding den Befehl Giftversuche an sechs russischen Kriegsgefangenen in Buchenwald durchzuführen. Von den 15 Opfern dieser Versuche starben 11.

Mrugowsky befahl Ding, Versuche zur Erprobung von Salben gegen Verbrennungen durchzuführen, die man KZ Insassen künstlich mit Phosphor beibrachte. Er befahl auch Versuche mit Alt-Blutplasma, sowie die Abnahme von Blut zur Herstellung von Blut plasma von Häftlingen, die sich in schlechtem körperlichen Zustande befanden. Ebenso wurde Fleckfieber-Rekonvaleszenten-Blut zur Herstellung eines Serums abgenommen.

Die Erprobung des Phenol-Gehalts von Gas-Oedem-Serum wurde von Ding, auf Befehl Mrugowskys, in der Weise ausgeführt, dass man Insassen mit Phenol-Einspritzungen tötete.

Mrugowsky sprach mit Sievers mindestens zweimal wegen der Zusammenarbeit zwischen ^{dem} Hygiene-Institut der Waffen-SS und Rascher in der Frage der Salte-Versuche. Mrugowsky hatte aktiven Anteil an den Sulfonamid-Versuchen, indem er das Infektionsmaterial zur Verfügung stellte und Ratschläge über Mittel und Wege gab, um die künstlich hervorgerufene Infektion wirksamer zu machen. Er regte Epidemische-Gelbsucht-

Versuche an Häftlingen in Buchenwald an. Er gab Blome wissenschaftlichen Rat in der Frage der Bakterienkrieg-Versuche.

Mrugowsky waren die Konzentrationslager nicht fremd. Abgesehen von der Durchführung gewisser hygienischer Aufgaben in Verbindung mit den Lagern, bestellte er das Gas für die Auschwitz Gaskammern, in denen mehr als zwei- und-eine-halbe Million Menschen vernichtet wurden. Die eidesstattliche Erklärung von Hoess, dem Kommandanten des Konzentrationslagers Auschwitz, beweist diese Tatsache. (NO-034, Ankl.Bew.468, R. 5407).

Die Anklagebehörde unterstellt, dass das Beweismaterial ergibt, dass Mrugowsky Haupttäter, Teilnehmer, Anstifter, Vorschubleistender war, seine Zustimmung gab und in Verbindung stand mit Plänen und Unternehmungen, die die Durchführung medizinischer Experimente an lebenden Menschen, ohne Zustimmung der Betroffenen, zum Gegenstand hatten, in deren Verlauf Morde, Brutalitäten, Grausamkeiten, Folterungen, Greueltaten und andere unmenschliche Handlungen begangen wurden, und dass seine Schuld im Sinne der Punkte I, II, III und IV der Anklagebehörde erwiesen ist.

MRUGOWSKY

Ich, Fred Lax, Nr. X046207 bestaetige hiermit, dass
ich durchaus vertraut mit der englischen und deutschen
Sprache bin, und dass das Vorstehende eine wahrheits-
gemaeße und richtige Uebersetzung des Dokuments
Mrugowsky darstellt.

27 June 1947

Fred Lax
Nr. X046207

"END"

MILITÄRGERICHTSHOF NR. I

FALL NR. 1

ZUSAMMENFASSENDER SCHRIFTSATZ DER
VEREINIGTEN STAATEN VON AMERIKA

- gegen -

ADOLF POKORNY

James M. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

Nuernberg,
16. Juni 1947.

Fuer:

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War Crimes.



EINFUEHRUNG

Unter Punkt I der Anklageschrift wird der Angeklagte Pokorny beschuldigt, sich mit anderen Personen im Verfolge eines gemeinsamen Vorhabens zu einer Verschwörung und Uebereinkunft zusammengefunden zu haben, um medizinische Experimente an lebenden Menschen ohne deren Zustimmung vorzunehmen; unter Punkt II und III (Kriegsverbrechen und Verbrechen gegen die Menschlichkeit) dass er Haupttaeter, Teilnehmer, Anstifter, Vorschubleistender gewesen ist, seine Zustimmung gegeben und mit Plaenen und Unternehmen in Verbindung gestanden hat, die die Durchfuehrung medizinischer Experimente an lebenden Menschen ohne deren Zustimmung zum Gegenstand hatten.

Dem Angeklagten Pokorny wird die persoenliche Verantwortlichkeit fuer und die Teilnahme an verbrecherischen Sterilisierungs-Experimenten zur Last gelegt, wie sie in Ziffer 6 (I) der Anklageschrift beschrieben sind.

I. VERANTWORTLICHKEIT FUER UND PERSOENLICHE TEILNAHME AN VERBRECHERISCHEN VERSUCHEN

Im Gegensatz zu allen anderen Angeklagten auf der Anklagebank hatte der Angeklagte Pokorny niemals eine verantwortliche Stellung in der Partei oder in der staatlichen Hierarchie Nazi-Deutschlands inne. Seine Vergangenheit ist die vollkommen unbedeutende eines Doktors in einer Kleinstadt. Vor dem Muenchener Abkommen (Oktober 1938) war er tschechoslowakischer Staatsangehoeriger (Pokorny, R. 10013) und als seine Heimatstadt auf Grund dieses Abkommens vom deutschen Heere besetzt wurde, wurde er ein Buerger Grossdeutschlands. (Ebenda). Waehrend des Krieges diente er als Sanitaetsoffizier im deutschen Heer und wurde Hauptmann. (Pokorny, R. 10014). Der Angeklagte Pokorny war kein Mitglied der NSDAP und auch nicht der SS. Er kann nicht behaupten, und behauptet auch nicht, dass ihn seine Pflicht als Soldat dazu zwang an irgendwelchen verbrecherischen Versuchen an lebenden Menschen ohne deren Einwilligung teilzunehmen oder dabei zu helfen. Es besteht fuer ihn nicht die mindeste Rechtfertigung dafuer, dass er sich aus eigener Initiative mit Himmler in Verbindung gesetzt und ihm Vorschlaege

fuer die Sterilisierung und schliessliche Ausrottung nichtdeutscher Staatsbuerger gemacht hat.

Im N.S. Deutschland gab es ein Gesetz, das die Sterilisierung deutscher Buerger unter gewissen Umstaenden erlaubte. Dieses Gesetz bezog sich unter anderen auf Personen, die mit vererblichen Krankheiten behaftet waren. Die Gesetzmassigkeit dieser Verordnung steht hier nicht zur Debatte, da die Sterilisierungen, die den Gegenstand dieser Anklageschrift bildeten, ohne jeden Schein gesetzlicher Rechtfertigung vorgenommen wurden, um eine Methode zur Massensterilisierung sogenannter minderwertiger Rassen zu finden. Pokorny wird deshalb der besonderen Verantwortlichkeit fuer und der Teilnahme an medizinischen Versuchen beschuldigt, die durchgefuehrt wurden, um unauffaellige, billige und schnelle Methoden zur Massensterilisierung der Feinde des Nazisystems ausfindig zu machen. Dies war der eindeutige Zweck der verschiedenen Sterilisierungsversuche, die in verschiedenen Konzentrationslagern durchgefuehrt wurden. (Siehe eidesstattliche Erklaerung von R. Brandt, NO-440, Ankl. Bew. 141, R. 501).

Es wurde mit verschiedenen Verfahren der Massensterilisierung experimentiert. Dr. Clauberg, der Sterilisierungsversuche an weiblichen Haeftlingen in Auschwitz, durch Einspritzung vom Eingang des Uterus durchfuehrte, (NO-212, Ankl. Bew. 173, R. 570), erbat und erhielt Himmlers Unterstuetzung fuer solche Versuche und erhielt von ihm den Auftrag festzustellen, wie lange es dauern wuerde 1000 Juedinnen, mittels seiner Methode zu sterilisieren. (NO-213, Ankl. Bew. 171, R. 567). Auch der Angeklagte Brack, der eine schnelle und billige Sterilisierung mittels Roentgenstrahlen vorschlug, setzte sich mit Himmler in Verbindung. In diesem Zusammenhang betonte Himmler, dass es notwendig sei, eine Sterilisierungsmethode zu finden, die ohne Wissen der Betroffenen angewandt werden koenne. Diese Tatsachen beweisen, ganz zweifollos, dass Massensterilisierung sogenannter minderwertiger Rassen eine der Hauptsorgen Himmlers war. Der Angeklagte Pokorny war der Urheber der verbrecherischen Experimente mit medizinischer

Sterilisierung. Im Oktober 1941 unterbreitete er Himmler einen Bericht, der zur Sterilisierung von Millionen Nichtdeutscher mittels einer Droge (Caladium Seguinum) aufforderte, die aus dem Saft der Pflanze Schweigrohr gewonnen wird. (NO-035, Ankl. Bew. 142, R. 510). Dieser Brief wurde von Professor Hohn an Himmler weitergeleitet, um, wie Pokorny sich ausdrückte, "den langsamen Instanzenzug und die Möglichkeit einer Indiskretion mit Bezug auf die möglicherweise enorme Wichtigkeit der ausgeführten Gedanken zu vermeiden." (Unterstreichungen eingefügt). Die ausserordentliche Eile, mit der Pokorny versuchte seine Vorschläge Himmler unterbreiten zu lassen und die Art und Weise, in welcher er die grosse Wichtigkeit der Angelegenheit betonte, zeigen klar seinen Eifer, Himmlers Einwilligung zu erhalten und sich und seine Idee in guenstiges Licht zu setzen. In seinem Brief fuhrte Pokorny weiter aus, dass er "von den Gedanken getragen sei, dass der Feind nicht nur besiegt, sondern vernichtet werden muesse." (Unterstreichungen eingefügt). Als ein Mittel zur Zerstörung des Feindes schlug er Himmler die Sterilisierung von Millionen Nichtdeutscher durch den Saft der Pflanze Caladium Seguinum vor, die in die Haende des Dritten Reiches gefallen waren. Er unterrichtete Himmler ueber die Schrift von Ladaus ueber medikamentoesa Sterilisierung und ueber die ungeheure Wichtigkeit dieses Medikaments "fuer den jetzigen Kampf unseres Volkes". Er fuhr dann fort:

"Wenn es gelaenge, auf Grund dieser Forschungen ein Medikament herzustellen, das nach relativ kurzer Zeit eine unbemerkte Sterilisierung bei Menschen erzeugt, so staende uns eine neue wirkungsvollste Waffe zur Verfuegung. Allein der Gedanke, dass die drei Millionen momentan in deutscher Gefangenschaft befindlichen Bolschewisten sterilisiert werden koennten, sodass sie als Arbeiter zur Verfuegung stueenden, aber von der Fortpflanzung ausgeschlossen waeren, eroeffnet weitgehendste Perspektiven." (Unterstreichungen von Pokorny).

Pokorny erklarte, dass Caladium Seguinum durch den Mund eingenommen oder als Injektion verabreicht dauernde Sterilitaet von Maennern und Frauen erzeugen wuerde, was durch Ladaus' Forschung mit Tieren bewiesen wurde. Pokorny sagte, dass, wenn seine Gedanken Himmlers Beifall finden wuerden, das folgende getan werden sollte:

- "1.) Dr. Madaus duerfte keine Publikation dieser Arten veroeffentlichen (Feind hoert mit!)
- "2.) Vermehrung der Pflanze (in Glashausern leicht zuechtbar!)
- "3.) Sofortige Versuche an Menschen (Verbrecher!) um die Dosis und Dauer der Behandlung festzustellen.
- "4.) Rascheste Ergruendung der Konstitutionsformel des wirksamen chemischen Koerpers, um
- "5.) diesen wennmoeglich synthetisch herzustellen."

Zum Schluss verpflichtete sich Pokorny zur Verschwiegenheit ueber den Zweck seines Berichtes.

Das Beweismaterial hat gezeigt, dass der Vorschlag Pokornys von Himmler begierig aufgenommen wurde und seinen vollen Beifall fand. Pokornys Brief war die Ursache fuer all das was folgte. Der handschriftliche Vermerk auf Pokornys Brief, "Dachau" (NO-035, siehe oben) zeigt, dass es Himmlers unmittelbare Reaktion war, Versuche an Haeftlingen des Konzentrationslagers Dachau ausfuehren zu lassen, die darueber Gewissheit verschaffen wuerden, ob die Droge Caladium Seguinum zur Massensterilisierung benutzt werden koennte. Am 10. Maerz 1942 sandte Himmler an Oswald Pohl, den Chef des Wirtschaftsverwaltungshauptamtes der SS und Verwaltungsdirektor aller Konzentrationslager, eine Abschrift von Pokornys Memorandum und befahl ihm, sich mit Madaus in Verbindung zu setzen, um es zu ermoeglichen, dass Versuche an Konzentrationslagerhaeftlingen in Zusammenarbeit mit Grawitz, dem Reichsarzt SS und Polizei, durchgefuehrt werden koennten. Himmlers Brief an Pohl zeigt, dass er Pokornys Memorandum "sehr interessant fand". Im gleichen Brief erhielt Pohl von Himmler den Befehl Madaus anzuweisen, nichts ueber das Thema der medikamentoesen Sterilisierung zu veroeffentlichen. (NO-036, Ankl. Bew. 143, R. 512; NO-038, Ankl. Bew. 147, R. 514). Eine Abschrift dieses Briefes wurde vom Angeklagten R. Brandt an Grawitz weitergeleitet (Ebenda), der gleichfalls eine Abschrift von Pokornys Bericht und Information ueber Madaus' Schrift ueber medikamentoesen Sterilisierung von Tieren durch die Pflanze Caladium Seguinum erhielt.

(NO-037, Ankl. Bew. 146, R. 513). Heydrich, der Chef der Reichssicherheitspolizei und des SD wurde ebenfalls über die Möglichkeit der Sterilisierung mittels Caladium Seguinum unterrichtet, offensichtlich im Hinblick auf die Massensterilisierung von Juden. (NO-047, Ankl. Bew. 145, R. 513).

Am 3. Juni 1942 schrieb Pohl an Himmler, dass, nachdem Caladium Seguinum nur in Nordamerika wachse, und während des Krieges nicht in hinreichenden Mengen exportiert werden könne, Dr. Koch vom Biologischen Institut der Madaus-Werke Versuche angestellt habe, die Pflanze aus in Treibhäusern kultivierten Samen zu ziehen. Diese Versuche seien erfolgreich gewesen, aber die Methode der Zucht der Pflanze und Herstellung des Medikaments sei nicht schnell genug und die Ausbeute reiche nicht aus, um Experimente "in grossen Umfange" zu gestatten. Um diese Schwierigkeiten zu beheben, wurde es für notwendig erachtet, ein grösseres Treibhaus zu bauen. Pohl hatte dies Koch versprochen. (NO-046a, Ankl. Bew. 148, R. 515). Am 11. Juni teilte Rudolf Brandt Pohl mit, er habe Himmler von Pohls Brief in Kenntnis gesetzt und Himmler wolle, dass Pohl dafür Sorge trage, dass Dr. Koch ein grosses Treibhaus so schnell wie möglich zur Verfügung gestellt würde, da Himmler die Versuche für "ausserst wichtig" ansähe. Brandt ersuchte Pohl ferner um weitere Berichte in dieser Angelegenheit. (NO-046b, Ankl. Bew. 149, R. 516). Acht Tage später hatte Brandt eine Konferenz mit Pohl, in deren Verlauf er unter anderem Pohl von Himmlers Ersuchen in Kenntnis setzte, die Bestandteile von Caladium Seguinum gründlich untersuchen zu lassen. Himmler wollte wissen, ob ebenso wirksame Bestandteile in Pflanzen enthalten wären, die in Deutschland oder an irgendeinem anderen der SS zugänglichen Orte Europas gefunden werden könnten. Dr. Koch sollte in vollstem Ausmass unterstützt werden. Er teilte Pohl mit: "Reichsführer SS ersucht auch, dass mit dem vorhandenen Vorrat dieser Pflanze auf jeden Fall sofort Sterilisierungsexperimente in den Konzentrationslagern vorgenommen werden sollten."

Pohl erklarte sich bereit, sofort die notwendigen Schritte zu unternehmen. (NO-044, Ankl. Bew. 150, R. 517). Amt IV-B-4 des Reichssicherheitshauptamtes, die Stelle, die mit der "Loesung der Judenfrage" betraut war, (Urteil des LdT, R. 16924) wurde von Himmlers Adjutanten ueber die Forschungsarbeit in Kenntnis gesetzt und ersucht, eng mit Pohl in dieser Sache zusammenzuarbeiten. (NO-050, Ankl. Bew. 151, R. 518).

Ungefuehr ein Jahr nach Pokornys Anregung zu den Sterilisierungsexperimenten machte der stellvertretende Gauleiter des Gebiotes Niederdonau, SS-Obergruppenfuehrer Gerland, Himmler denselben Vorschlag. Gerland befuerwortete Experimente mit *Caladium Seguinum* an Insassen des Zigeunerlagers Lackenbach/Niederdonau. Gerland wies darauf hin, dass im Falle des erwarteten Erfolges dieser Experimente es moeglich sein wuerde, eine praktisch unbegrenzte Anzahl von Personen in kuerzester Zeit und auf die denkbar einfachste Weise zu sterilisieren. (NO-039, Ankl. Bew. 153, R. 519). Brandt setzte Gerland davon in Kenntnis, dass diese Angelegenheit Himmler schon bekannt sei, (als Resultat von Pokornys Brief) und dass daran gearbeitet wuerde. Er fragte Gerland, ob er *Caladium Seguinum* verfuegbar habe und welchen Weg er zur Beschaffung dieser Pflanze vorschlagen wuerde. (NO-040, Ankl. Bew. 154, R. 521). Am 7. September 1942 teilte Pohl Gerland mit, dass er zusammen mit Dr. Lolling, dem Chefarzt der Konzentrationslager, die Experimente persoenlich beaufsichtige. (NO-042, Ankl. Bew. 155, R. 523). In einem Brief vom gleichen Datum an Brandt fuehrte Pohl aus, dass mit Ladaus ein Uebereinkommen getroffen war, "die Versuche sobald wie moeglich nach unserem Konzentrationslager zu verlegen". (NO-041, Ankl. Bew. 156, R. 523). Spaeater schrieb Gerland, dass sein Assistent, Dr. Fehringer, versuchen wollte, *Caladium Seguinum* kuenstlich herzustellen, und er schlug eine Zusammenarbeit zwischen Lolling und Fehringer vor. (NO-043, Ankl. Bew. 157, R. 524).

Brandt stimmte der Zusammenarbeit zwischen Fehrer und Lolling zu. (NO-049, Ankl. Bew. 159, R. 525; NO-048, Ankl. Bew. 158, R. 524). Das Beweismaterial hat in einer ueber jeden Zweifel erhabenen Weise gezeigt, dass Sterilisierungsexperimente mit Caladium Seguinum tatsaechlich an Konzentrationslagerhaeftlingen vorgenommen wurden. Himmler, der die hoechste Autoritaet in der Entscheidung solcher Fragen war, gab nicht nur seine Einwilligung zu diesen Experimenten (NO-036, oben), sondern erachtete sie auch als "auusserst wichtig", ^(NO-046b, oben) und ordnete an, dass sie auf jeden ^(NO-044, oben) Fall in den Konzentrationslagern durchzufuehren seien. Als Pohl, der die Verwaltung der Konzentrationslager unter sich hatte, vom Angeklagten R. Brandt von Himmlers Verlangen in Kenntnis gesetzt wurde, erklaerte er sich bereit, unverzueglich die notwendigen Schritte zu unternehmen. (NO-044, oben). Die Weiterleitung des Berichts von Madaus an Heydrich, den Chef des Sicherheitsamtes und SD, bezueglich "der Frage der medikamentoesen Sterilisierung" ^(NO-047, oben) kann nur den Zweck gehabt haben, ihn ueber den Charakter dieser Art von Sterilisierungsversuchen in Kenntnis zu setzen. Es kann kein Zweifel bestehen, dass das Amt IV-B-4, welches mit der Loesung der Judenfrage betraut war, von Madaus Forschungswerk in Kenntnis gesetzt worden war, um die fuer die Versuche noetigen juedischen Opfer zur Verfuegung zu stellen. Die Zusammenarbeit mit Dr. Lolling, der der Arzt fuer alle Konzentrationslager war, kann nur im Zusammenhang mit den Versuchen in diesen Lagern erklaert werden. Das geht auch einwandfrei aus Gerlands Brief an Brandt hervor:

"SS-Obergruppenfuehrer Pohl hat mir mitgeteilt, dass der Arzt seines Hauptamtes mit dem Biologischen Institut Madaus' zur Erforschung der Wirkung von Caladium Seguinum bereits zusammenarbeitet, sodass der Vorschlag meines Gauhauptstellenleiters, Dr. Fehrer, hinfaellig wird." (NO-043, oben - Unterstreichungen eingefuegt).

Es kann nur der Schluss gezogen werden, dass Pohl und Lolling die Versuche in den Konzentrationslagern so durchfuehrten, wie

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Himmler, Rudolf Brandt und Ladaus es untereinander beschlossen hatten. (NO-041, oben). Ausserdem hat Brandt selbst in seiner eidesstattlichen Erklrung zugegeben, dass Experimente mit Caladium Seguinum an lebenden Menschen in Konzentrationslagern vorgenommen wurden.

"Als ein Ergebnis von Pokornys Vorschlag wurden Versuche an Konzentrationslagerinsassen durchgefuehrt, um die Wirkung der Droge zu pruefen. Gleichzeitig bemuehte man sich, die Pflanze in grossen Mengen anzubauen. Oswald Pohl, Chef des WVHA, nahm persoenliches Interesse an dieser Angelegenheit. Treibhaeuser wurden mit gewissem Erfolg benutzt, um die Pflanze anzubauen, und die Versuche wurden fortgesetzt." (NO-440, Ankl. Bw. 141, R. 501).

Pokorny gab zu, das Memorandum an Himmler geschrieben zu haben (R. 10041-2), das die Sterilisierungsexperimente mit Caladium Seguinum zur Folge hatte. Zu seiner Verteidigung gab er an, dass er nur die Durchfuehrung von Himmlers Plnen fuer Massensterilisierung und Ausrottung der Einwohner der Ostgebiete und der Juden verhindern wollte. Er erfuhr angeblich von diesem Plan im Juli 1941 von einem seiner Patienten, einem gewissen Voigt, und wollte diesen Plan Himmlers sabotieren. (R. 10037). Er hielt den Gedanken, Menschen mit Caladium Seguinum zu sterilisieren, fuer wissenschaftlich unmoeglich und war der Meinung, dass die Schlussfolgerungen der Artikel von Ladaus nicht ganz den Tatsachen entsprachen, so kam er auf die Idee, dass diese Unmoeglichkeit der Durchfuehrung ein Weg sei, Himmlers Plan zur Massensterilisierung zu hintertreiben. (R. 10040). Er setzte sich deshalb mit einer hochstehenden Persoenlichkeit, einem Freund Himmlers, dessen Namen er aber nicht kannte, in Verbindung, um einen Brief mit dem Vorschlag einer solchen Sterilisierung an Himmler weiterzuleiten. Diese Persoenlichkeit empfahl ihm sich mit Professor Hoehn in Verbindung zu setzen. (R. 10042). Pokorny sagte weiterhin aus, dass es unmoeglich oder fast unmoeglich sei, Menschen mit Caladium Seguinum in Europa zu sterilisieren oder zu kastrieren, da tropische Pflanzen, die in Treibhaeusern gezuechtet werden, ihre Giftwirkung verlieren.

Ausserdem waere ein grosses Quantum der Droge dazu notwendig, um Kastrierung eines Menschen mittels Caladium Seguinum zu erzielen. (R. 10069). Diese Bezeugung von Idealismus und eines hochstehenden Zweckes bei dem Versuch, die Sterilisierung und Ausrottung der Juden und Gegner des N.S.-Regimes zu sabotieren, wurde von jedem einzelnen der Verbrecher vorgebracht, denen Teilnahme an solchen Massenmorden und Verfolgungen nachgewiesen wurden. Streicher war voll und ganz fuer eine "anstaendige Loesung der Judenfrage" und wollte die Juden in Madagaskar angesiedelt sehen. (Siehe den abschliessenden Schriftsatz von Oberrichter Jackson). Der Angeklagte Brack benutzte genau die gleiche laecherliche "Verteidigung". Er kann nicht verstehen, warum man ihn als einen Judenfeind betrachtet. Seine Vorschlaege zur Roentgensterilisierung waren, wie die Pokornys, einfach ein Versuch, die Ausrottungsplaene zu hintertreiben. Roentgensterilisierung war genau so, wie Medikamentoeso Sterilisierung in Wirklichkeit unmoeglich. Solche Aussagen sind natuerlich die letzten Versuche verzweifelter Maenner, der gerechten Strafe fuer ihre fuerchterlichen Verbrechen zu entgehen. Es sind ganz offensichtliche Versuche, Gegner, die, wie sie hoffen, grossmaetig und leichtglaeubig sind, hinters Licht zu fuehren. Pokornys Behandlung seiner eigenen halbjuedischen Frau ist genuegend Beweis seiner wirklichen Gefuehle gegenueber sogenannten "rassisch minderwertigen".

Die Behauptung, dass Caladium Seguinum bei Menschen keine Sterilitaet hervorrufen koenne, ist kein Verteidigungsgrund. Es genuegt vollkommen, dass sie der Ansicht waren, dass es wirksam sein koennte und dass sie alles taten, um es wirksam zu machen. Es ist ein Verbrechen, wenn jemand versucht, einen Mord zu begehen, obgleich dies vielleicht tatsaechlich unmoeglich sein mag. Ausserdem liegen betraechtliche Beweise dafuer vor, dass Caladium Seguinum Kastrierung bei Menschen hervorrufen kann. Der Sachverstaendige Zeuge, Dr. Scheiffarth, kam auf Grund seines Studiums der Veroeffentlichung von Madaus ueber Tierexperimente, zu folgenden Schluessen:

"Nach den feingeweblichen Untersuchungen, wie sie die mikrophotographischen Reproduktionen in (Abb. IIb, IVb und V B auf S. 77, 78, 80, 82) darstellen, und nach den textlichen Erläuterungen, welche die Autoren selbst dazu geben, zeigen die durch Caladium hervorgerufenen Wirkungen am gesamten männlichen Geschlechtsapparat "eine auffallende Ähnlichkeit mit Kastrationsveränderungen" (S. 87 d. Veroeff.). Dennoch wollen die Verfasser "aus dieser Tatsache nicht ohne weiteres schliessen, dass der Angriffspunkt des Caladiums selektiv in den Keindrüsen gelegen ist."

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"Als wesentlich kann der vorliegenden Arbeit nur entnommen werden, dass auch der Effekt des Caladium einer Kastration entsprechen dürfte. Einer Uebertragung auf den Menschen stünden daher vor allem die eingangs geäusserten Bedenken gegenüber, dass Kastration nicht nur "Sterilisation" d.h. Fortpflanzungsverhütung, sondern eine schwere Schädigung der biologischen Gesamtheit des Individuums bedeutet." (NO-3347, Ankl. Bew. 546, R. 10368).

Dr. Tauboeck erklärte in seiner eidesstattlichen Aussage zum selben Thema:

"Durch genaue Ueberprüfung des Sektionsmaterials von Mäusen und Ratten, sowie der histologischen Präparate gewann ich die feste Ueberzeugung, dass die Veröffentlichungen der Firma MAD. A. S. auf voller Wahrheit beruhen. Durch meine Ueberprüfung gewann ich als Fachmann auf diesem Gebiete die feste Ueberzeugung, dass eine Sterilisation mit Schweigrohr (Caladium Seguinum) keine Utopie ist, sondern eine Angelegenheit, die durchaus möglich ist. Auf dem Rückweg von Dresden nach Berlin eröffneten mir die Herren der SS, dass diese Forschung durchgeführt werden wurde auf direktem Auftrag von Reichsführer SS HIMMLER zum Zwecke der Unterdrückung der Geburten bei Ostvölkern. Nach Eröffnung dieser Tatsache wurde ich von der SS auf Verschwiegenheit verpflichtet."

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"Aus im mitteleuropäischen Klima kultivierten Caladium-Pflanzen lässt sich meiner wissenschaftlichen Ueberzeugung nach ein hochwirksames Präparat herstellen"

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"Nach allen bereits angeführten Beispielen und Erklärungen bin ich der Ansicht, dass die Massenfäbrication eines kastrierenden Präparates aus der Schweigrohrpflanze (Caladium Seguinum) in Deutschland, bzw. in den damals von Deutschland besetzten Gebieten keine Utopie ist, sondern durchaus in die Praxis hätte umgesetzt werden können. Ein weiterer Beweis für die Gefährlichkeit des Caladium-Giftes ist die Tatsache, dass bei den Untersuchungen von MAD. A. S. trotz aller bereits beschriebenen grundlegenden Mängel die kastrierende Wirkung von Caladium im Prinzip einwandfrei bestätigt wurde. Aus allen diesen Erwägungen habe ich die Kriminalität einer solchen Forschung sofort erkannt

und habe sie deshalb, soweit sie meinen speziellen Auftrag betraf, nicht durchgefuehrt. Die SS jedoch hat sich fuer dieses Gebiet sehr stark interessiert. Mein Auftrag als Angestellter der I.G.-Farbenindustrie kam vom Chef der Sicherheitspolizei, zuerst durch die getarnte Dienststelle des Forschungsinstitutes Grunewald/Berlin und spaeter direkt. Ich weiss jedoch, dass die Auftragserteilung der Firma MADDAUS durch SS-Obergruppenfuehrer POHL separat gelaufen ist und bin ueber die Entwicklung dieser Angelegenheit nicht orientiert." (NO-3963, Ankl. Bew. 528, R. 10086).

Pokornys Brief an Himmler ist das einzige Beweisstueck gegen ihn, aber es genuegt vollkommen. Er hat zu dem Verbrechen der Massensterilisierung angestiftet und einen Weg zu seiner Durchfuehrung vorgeschlagen. Er wurde dadurch zum Beihelfer vor Begehung der Tat. "Ein Beihelfer vor Begehung der Tat ist, wer zwar beim Begehen der Tat abwesend auf einen anderen einwirkt, ihm Rat gibt oder ihm befiehlt, das erwachte Verbrechen zu begehen, welches als Folge dieser Einwirkung, dieses Ratschlags oder des Befehls begangen wurde". (Whartons Criminal Law (1932) Band 1, Abschnitt 263). Nichts koennte klarer sein, als die Tatsache, dass Pokorny gerade zu dem Verbrechen, das begangen wurde, seinen Rat gab und dazu anstiftete. Der Rat, den er gab, bezueglich der Mittel und Wege zur Durchfuehrung des Verbrechens war nicht ganz allgemein gehalten sondern genau spezifiziert. Wharton fuehrt aus: "Die Bezeichnung 'Rat geben' umfasst Ratschlag und Anleitung bezueglich der Art und Weise der Begehung besonderer Verbrechen ..." (Ebenda, Abschnitt 265). Ausserdem "macht es nichts aus, welche Zeit verflossen oder wie gross der Zwischenraum ist, zwischen dem Ratschlag und der Durchfuehrung, vorausgesetzt, dass ein unmittelbarer kausaler Zusammenhang zwischen der Anstiftung und der Begehung besteht". (Ebenda). Der Kausalzusammenhang in dieser Sache ist klar und eindeutig. Pokornys Anstiftung war der direkte Anlass fuer das, was getan wurde. Sein Memorandum wurde von Himmler gelesen und gebilligt und an die Personen weitergeleitet, die die Arbeit taten.

Pokorny muss nicht nur des Caladium Seguinum-Verbrechens fuer schuldig befunden werden

sondern auch des In-Verbindung-Stehens mit Plaenen und Unternehmen, die die Durchfuehrung verbrecherischer Sterilisierungsexperimente auch mittels anderer Methoden zum Gegenstand hatten. Seine Anstiftung gab notwendigerweise dem eigentlichen Verbrechen der Massensterilisierung Antrieb und unterstuetzte es. Pokorny schlug medikamentoese Sterilisierung vor, Brack Roentgen und Clauberg Injektionen. Sie alle aber hatten denselben verbrecherischen Zweck und fuehrten zum selben rechtswidrigen Ziel. Jeder unterstuetzte und foerderte den anderen. Im Sommer 1942 bemuehte sich Himmler nach allen Richtungen ein schnelles und unmerkliches Mittel der Massensterilisierung zu finden. Pokorny nahm an dem verbrecherischen Plan teil und seine Schuld wird nach der Gesamtzahl der begangenen Verbrechen bemessen.

Die Anklagebehoerde unterstellt, dass das Beweismaterial ergibt, dass Pokorny Haupttaeter, Teilnehmer, Anstifter, Vorschubleistender war, seine Zustimmung gab, und in Verbindung stand mit Plaenen und Unternehmen, die die Durchfuehrung medizinischer Versuche an Menschen ohne deren Zustimmung zum Gegenstand hatten und Mitglied einer Organisation oder Gruppe war, die in Verbindung stand mit diesen Versuchen, in deren Verlauf Mordtaten, Brutaltaten, Grausamkeiten, Folterungen, Greuel-taten und andere unmenschliche Handlungen begangen wurden und dass seine Schuld im Sinne der Anklagepunkte I, II und III erwiesen ist.

"ENDE"

Ich, Fred Lax # X 046207, bestaetige hiermit, dass ich durchaus vertraut mit der englischen und deutschen Sprache bin und dass das Vorstehende eine wahrheitsgemaeße und richtige Uebersetzung des Dokuments "ADOLF POKORNY" darstellt.

Nuernberg, 15. August 1947

FRED LAX
X 046207

MILITÄRGERICHTSHOF Nr. I

FALL Nr. 1

ZUSAMMENFASSENDER SCHRIFTSATZ

fuor

DIE VEREINIGTEN STAATEN VON AMERIKA

-gegen-

HELMUT POPPENDICK

Nuernberg,
16. Juni 1947

James M. McHaney
Alexander G. Hardy
Arnost Horlik-Rochwald
Esther Jane Johnson

"
Für:

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War Crimes



EINFUEHRUNG

Unter Punkt Eins der Anklageschrift wird der Angeklagte Poppendick beschuldigt, dass er sich mit anderen Personen im Verfolg eines gemeinsamen Vorhabens zu einer Verschwörung und Uebereinkunft zusammengefunden hat, um medizinische Experimente an lebenden Menschen ohne deren Zustimmung vorzunehmen; unter Punkt Zwei und Drei (Kriegsverbrechen und Verbrechen gegen die Menschlichkeit), dass er Haupttaetor, Teilnehmer, Instifter, Vorschubleistender gewesen ist, seine Zustimmung gegeben hat und mit Flaenen und Untornehmen in Verbindung gestanden hat, die die Durchfuhrung medizinischer Experimente an lebenden Menschen ohne Zustimmung der Betroffenen zum Gegenstand hatten; und unter Punkt Vier, dass er nach dem 1. September 1939 Mitglied der SS war, einer vom Internationalen Militaergerichtshof als verbrecherisch erklarten Organisation.

Der Angeklagte Poppendick wird insbesondere beschuldigt, an den in Ziffer 6 (B) der Anklageschrift beschriebenen Kaelteversuchen, an Malariaversuchen (Ziffer 6 (C)), an Sulfonamidversuchen (Ziffer 6 (E)), an Seowasserversuchen (Ziffer 6, (G)), an "epidemische Gelbsucht"-Versuchen (Ziffer 6 (H)), an Sterilisationsversuchen (Ziffer 6 (I)), an Flockfieberversuchen (Ziffer 6 (J)) und Brandbombenversuchen (Ziffer 6 (L)) ^{zu} teilgenommen haben. Um die Sachlage zu vereinfachen, zieht die Anklagebehörde hiermit die Beschuldigung der Teilnahme an den in Ziffer 6 (A) beschriebenen Hoehenversuchen und an den in Ziffer 6 (K) beschriebenen Giftversuchen zurueck.

I. STELLUNG UND VERANTWORTUNG.

Der Angeklagte Poppendick trat der NSDAP im Jahre 1932, der SS im selben Jahre bei. In der SS stieg er bis zum Rang eines Oberfuhrers auf. Vom Jahre 1935 an arbeitete er als Arzt am SS-Rasse- und Siedlungshauptamt, und im Jahre 1941 wurde er zum Chefarzt bei diesem Amt ernannt. (Poppendick R. 5533-40; NO-672, Ankl.Bew.30, R.133). Bereits im Jahre

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1939 wurde er Mitglied des Stabs des Reichsarztes SS und Polizei Grawitz und erledigte neben seinem Dienst in dem RuSHA verschiedene Sonderaufgaben. (Poppendick, R.5612-3). Im Jahre 1943 wurde er zum Leiter des Personalamtes von Grawitz ernannt. (Poppendick, R. 5544, NO-672, siehe oben). Andere unter Grawitz stehende Amtsleiter waren die Angeklagten Krugowsky und Gebhardt. (NO-417, Ankl.Bow.23, R.). So sind drei der wichtigsten Mitarbeiter von Grawitz Angeklagte in diesem Prozess.

Poppendick erhielt waehrend seiner Zusammenarbeit mit Grawitz Kenntnis von vielen Experimenten, die in den verschiedenen Konzentrationslagern ausgefuehrt wurden und unterstuetzte sie. Trotzdem Grawitz - gemass Poppendicks Aussage - Geheimnistuerei sehr liebte (Poppendick, R.5546), war Poppendick doch ueber seine Arbeiten unterrichtet. Poppendick erhielt von Grawitz Kenntnis von Schillings Malariaexperimenten im Konzentrationslager Dachau. (Poppendick, R.5567). Er wusste, dass Ding sich im Zusammenhang mit der Erzeugung eines Fleckfieberserums oder Fleckfieberimpfstoffes mit Experimenten im Konzentrationslager Buchenwald beschaeftigte. (Poppendick, R.5579). Poppendick bestaetigte Gebhardts Vorbericht ueber die Sulfonamidversuche. (NO2734, Ankl.Bow.473, R.5622). Dieser Bericht wurde Himmler vorgelegt, und Grawitz, der in allem, was mit Himmler oder dem Personalamt in Verbindung stand, sich peinlicher Sorgfalt befleissigte, (Poppendick, R.5541), wurde sicherlich niemanden ein Dokument haben unterschreiben lassen, von dem diese Person nichts wissen sollte und das Himmler zu Gesicht bekommen wurde. Poppendick nahm mit Grawitz und Rascher an einer Konferenz ueber die Kaelteversuche des Januars 1943 teil. Waehrend dieser Konferenz machte Poppendick die Bemerkung:

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"Ja, ich habe Standartenfuhrer Sievers schon mehrmals zu mir bitten muessen, um Auskunfte zu erhalten, letztendes landes ja doch alle medizinischen Dinge bei uns!" (NO-320, Ankl.Bew.103, R.338) (Unterstreichungen eingefuegt). Poppendick nahm auch an Konferenzen teil, die Grawitz mit dem Angeklagten Sievers hatte, und traf die Vorbereitungen fuer solche Zusammenkunfte. Er stellte Aerzte fuer die Vornahme von medizinischen Versuchen zur Verfuegung und sorgte fuer die Verteilung von Forschungsaufgaben. Aus den Eintragungen, die der Angeklagte Sievers in sein Tagobuch vom Jahre 1944 machte, geht der Umfang seiner Taetigkeit klar hervor.

(3546-PS, Ankl.Bew.123, R.382, Eintragungen vom 26. und 28. April, 20. und 23. Mai, 8. September und 23. Oktober).

Dieses Vertrauensverhaeltnis zwischen Poppendick und Grawitz bestand schon lange vor seiner Ernennung zum Leiter des Personalamtes im Jahre 1943. Poppendick selbst gab zu, dass nach seiner Ernennung am 1. September 1943 kein Wechsel in seiner Stellung eintrat. (Poppendick, R.5612-3). Dies wird auch durch die Tatsache bewiesen, dass der von ihm bestaetigte Bericht Gebhardts das Datum des 7. September 1942 traegt (NO-2734, oben), und dass die Konferenz zwischen Poppendick, Grawitz und Rascher am 13. Januar 1943 stattfand. (NO-230, oben).

Im Lichte dieses Beweismaterials erscheint Poppendicks Behauptung, er sei in Grawitzens Buero nur ein "Botenjunge" gewesen (R.5613), vollkommen unglaubwuerdig. Man darf nicht vergessen, dass Grawitz fuer unbedeutende Aufgaben einen Adjutanten und einen Sekretaer hatte. (Poppendick, R.5542). Grawitz versprach ihm, dass er sich nicht mit allgemeinen Bueroarbeiten abzugeben haben wuerde. (Poppendick, R.5544). Ausserdem war Poppendick Oberfuhrer der SS und der hoechstgestellte

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Arzt im Rasse- und Siedlungshauptamt. (siehe oben). Es ist selbstverstaendlich, dass Grawitz eine so hochgestellte Personenlichkeit nicht als blossen "Botenjungen" benuetzt haben wuerde und dass Poppendick sich von niemandem in dieser Weise haette benutzen lassen. Eine Wuerdigung von Poppendicks Leistungen durch Grawitz in Verbindung mit einem Befoerdervorschlag im Jahre 1944 stellt diesen Punkt durchaus klar. Grawitz sagte:

"F. (Poppendick) ist einer der aeltesten SS-Aerzte Berlins. Ich arbeite mit ihm seit 1931 in der Schutzstaffel zusammen. Er zeichnete sich insbesondere durch eine stets gleichbleibende hervorragende charakterliche Haltung und leistungsmassige Bewachung aus.

"Er hat sich durch seine leitende Stellung in der aerztlichen Arbeit des Rasse- und Siedlungshauptamtes-SS Verdienste durch selbststaendig aufbauende und organisatorische, schoepferisch-wissenschaftliche Arbeit erworben.

"Als Leiter meines persoennlichen Bueros bewaeltigt er die hier anfallenden Aufgaben und Arbeitsgebiete mit besonderer Tatkraft und ausgezeichnetem Geschick. Er besitzt im Kameradenkreis ein weitgehendes Vertrauen"
(NO-1120, Ankl.Bew. , R.).

Um Poppendicks Einfluss als Leiter des Personalamtes und Mitarbeiter von Grawitz zu wuerdigen, muss man sich die Stellung, die dieser in dem Sanitaetswesen der SS bekleidete, und die Rolle, die er bei der Ausfuhrung der verschiedenen den Gegenstand dieses Prozesses bildenden Experimenten spielte, vor Augen halten. Dass die "SS und Himmler das gemeinsame Element in all diesen Experimenten waren", wird von dem Angeklagten Gebhardt zugegeben. (Gebhardt, R.4192). Grawitz, der Reichsarzt SS und Polizei, war der hoechststehende Sanitaetsoffizier in der SS und infolgedessen der direkte Vorgesetzte der Angeklagten Genzken, Gebhardt und Krugowsky. Dr. Lolling, der Leiter des Amtes III der Abteilung D des WVHA der SS, dem der Sanitaetsdienst in den Konzentrationslagern unterstand, war auch in technischen Angelegenheiten Grawitz

unterstellt. (NO-416, Ankl.Bew.22, R.121; NO-417, Ankl. Bew.23, R.121). Grawitz nahm mehr oder weniger an jedem verbrecherischen Experiment an Konzentrationslagerinsassen teil. Die meisten der Angeklagten, wie z.B. Genzken und Kru-gowsky, versuchen in der Tat, die ausschliessliche Verantwortung fuer diese Verbrechen Grawitz aufzuerlegen. So ist Grawitzens engster Mitarbeiter, der Angeklagte Poppendick, in die laecherliche Lage gedraengt, sagen zu muessen, dass Grawitz geheimnistuerisch war und dass er von diesen Dingen nichts wusste. Auch wenn nicht ein einziges Dokument oder ein Jota von Beweis gegen ihn in den Akten vorlaege, wuerde seine Stellung allein seine Verurteilung erfordern. Es wuerde unmoeglich sein anzunehmen, dass ein hochstehender Arzt, der mit Grawitz arbeitete, von den verbrecherischen Experimenten, in denen er eine wesentliche Rolle spielte, nichts wusste und sie nicht taetig unterstuetzte. Saemtliche Experimente wurden von Grawitzens Amt unterstuetzt und demselben gemeldet, und viele davon wurden von ihm angeordnet. Wenn jemand mit Grawitz arbeitete, musste er jene verbrecherische Forschungs-taetigkeit unterstuetzen, da sie ja Grawitzens Hauptbeschaeftigung war. Wir brauchen uns aber nicht allein auf Poppen-dicks Stellung zu stuetzen. Das Beweismaterial zeigt, dass er von verbrecherischen Experimenten wusste und persoenlich an ihnen teilnahm.

II. PERSOENLICHE TEILNAHME AN VERBRECHERISCHEN EXPERIMENTEN

A. Brandbombenversuche (Anklageschrift, Ziffer 6 (L))

Sturmtruppfuehrer Ding-Schuler - hiernach als Ding bezeich-net - fuehrte zwischen dem 19. und 25. November 1943 im Kon-zentrationslager Buchenwald Brandbombenversuche durch. (Ding-Tagebuch). Um die Wirksamkeit des Praeparates R 17 und der Echinacinsalbe und Fluessigkeit bei der Behandlung von Phos-phorverbrennungen festzustellen, wurden fuenf Versuchspersonen

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absichtlich mit brennendem Phosphor, der einer Brandbombe entnommen war, Brandwunden zugefügt. Die entstandenen Brandwunden waren sehr schwer, die Opfer litten qualvolle Schmerzen und dauernden Schaden. Die zu prüfenden Fraoparate waren von den Dr. Madaus-Werken in Hadebeul-Dresden hergestellt. (Kogon, R.1187-90).

Der Bericht ueber diese Experimente (NO-579, Ankl.Bow. 288, R.1188) wurde von Ding an die Angeklagten Poppendick und Krugowsky geschickt. (Kogon, R.1158, 1188). Die Forschungsabteilung V (gleich Vonkonnol) in Leipzig war auch an diesen Experimenten interessiert. Dings Schriftwechsel mit dieser Abteilung ging ueber Poppendick. (Kogon, R.1158, 1175, 1247, 1267). Die Forschungsabteilung V war ein vom Sturmbannfuhrer Vonkonnol mit von Grawitz zur Verfuegung gestellten Geldmitteln und Material betriebenes Laboratorium. (Poppendick Bow. 8, R. 5592). Poppendick war in Grawitzens Amt der fuer die Arbeit jenes Laboratoriums verantwortliche Referent. (Kogon, R.1267). Diese Zeugenaussage Kogons wird bestaetigt durch Briefe Vonkonnols an Poppendick und Dings an Poppendick, die die Fb ekfieberexperimente betreffen. (NO-1182, Ankl.Bow.477, R.5641; NO-1184, Ankl.Bow.476, R. 5639; NO-1185, Ankl.Bow.478, R.5645). Der letztere Brief wurde tatsaechlich von Kogon fuer Ding auf der Schreibmaschine geschrieben, wie aus der Aktennotiz ersichtlich ist.

B. Hormonexperimente

Experimente, um die Wirksamkeit kuenstlicher Druesen festzustellen, wurden auf Befehl des Angeklagten Poppendick im Konzentrationslager Buchenwald ausgefuehrt. (Kogon, R. 1196). Am 15. Juli 1944 trat er an Ding mit der Bitte heran, dem daenischen SS-Arzt Vaernot, der diese Experimente ausfuehren sollte, behilflich zu sein. In seinem Brief an Ding erkluert Poppendick:

"..... Die technischen Vorbereitungen sind soweit gediehen, dass

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in absehbarer Zeit mit Humanversuchen begonnen werden kann.

"Wie SS-Standartenfuhrer Dr. Lolling mitteilt, ist das KL Weimar-Buchenwald angewiesen worden, 5 Haeftlinge fuer die Versuche des SS-Sturmabfuhrers Vaernot zur Verfuegung zu stellen. Diese Haeftlinge werden durch den Lagerarzt SS-Stubaf. Vaernot jederzeit zur Verfuegung gestellt.

"SS-Stubaf. Vaernot beabsichtigt demnaechst nach Buchenwald zu kommen, um an diesen Haeftlingen einige notwendige Voruntersuchungen vorzunehmen. Falls es sich um besondere Labor-Untersuchungen handelt, werden Sie gebeten, Vaernot bei der Durchfuhrung im Rahmen Ihrer Moeglichkeiten behilflich zu sein.

"Dem Lagerarzt von Weimar-Buchenwald wurden heute einige nachere Unterlagen ueber die Untersuchung Vaernots zur Einsichtnahme zugesandt."
(NO-1300, Ankl.Bew.289, R.1199).

Vaernot arbeitete auch mit der Forschungsabteilung V in Leipzig zusammen, die der Versuchsabteilung "V" (Vonkennol) in Leipzig unterstellt war. Zweck der Experimente war festzustellen, ob es moeglich sei, Homosexualitaet durch operative Verpflanzung kuenstlicher Druesen zu beseitigen. (Kogon, R.1247). In der Tat wurden an ungefaehr 15 Haeftlingen des Konzentrationslagers Buchenwald, die vom Lagerarzt oder seinem Untergebenen ausgesucht wurden, solche Operationen ausgefuehrt. Zwei der Versuchspersonen starben als unmittelbare Folge der Experimente. (Kogon, R.1197-9, 1266). Dieses Beweismaterial wird durch die eidesstattliche Erklaerung des Lagerarztes Dr. Schiedlausky bestaetigt. (NO-508, Ankl.Bew.224, R.895). Da Poppendick diese Experimente angeordnet hatte, meldete Ding ihm die Resultate der von Vaernot im Konzentrationslager Buchenwald ausgefuhrten Versuche. (Kogon, R. 1200).

C. Fleckfieberversuche (Anklageschrift, Ziffer 6 (J))

Wegen der Beschreibung und des verbrecherischen Charakters dieser Versuche wird auf den Schriftsatz der Anklagebehoerde gegen

den Angeklagten Krugowsky Bezug genommen.

Poppendick gibt zu, dass er von der Tatsache, dass Ding ein Flockfieber-Serum oder -Schutzimpfstoff im Konzentrationslager Buchenwald herstellte, Kenntnis hatte. (Poppendick, R.5579). Er hatte angeblich keine Kenntnis davon, dass Ding mit lebenden Menschen experimentierte. Die Beweisaufnahme jedoch hat klar ergeben, dass Poppendick nicht nur von den im Konzentrationslager Buchenwald angestellten Flockfieberexperimenten Kenntnis hatte, sondern den Angeklagten Krugowsky ersuchte, Ding anzuweisen, mit Sulfonamiden, die ihm von der Forschungsabteilung V (Vonkennel) geliefert wurden, Flockfieberversuche anzustellen. Am 13. Juni 1944 schrieb er an Krugowskys mit einem Brief, der folgendermassen lautet:

"Am 1.6.44 wurde ein Schreiben des SS-Stubaf. Prof. Dr. Vonkennel übersandt, dessen letzter Absatz folgendermassen lautet:

'Beim Flockfieber haben wir schon einmal Versuche mit Sulfonamiden gemacht, aber ohne Erfolg. Nun hat Kimmig in dem Diaminodiphenylsulfon eine Substanz synthetisiert, die in der Streptokokkenmaus allen Sulfonamiden so haushoch überlegen ist, dass sie schon beinahe das Penicillin erreicht. Die Verbindung beim Menschen hat allerdings noch sehr unangenehme Nebenwirkungen (starke Cyanose), aber es wäre zu überlegen, ob man nicht doch einige orientierende Versuche bei Flockfieberkranken machen soll, um die weitere Arbeit an der Entgiftung der Verbindung zu berechtigen. Können Sie uns die Zusammenarbeit mit einer Klinik vermitteln?'

"Mit dortigem Schreiben vom 2.6.44, Tgb.Nr.370/44 war der Oberste Hygieniker damit einverstanden, dass in der Flockfieber-Forschungsabteilung Buchenwald das "Diaminodiphenylsulfon" nach Vonkennel und Kimmig bei Flockfieber auf Wirkung und Verträglichkeit versucht wird.

"In der Anlage werden nachere Angaben über dieses Mittel übersandt mit der Bitte um Weiterleitung an SS-Stubaf. Dr. Ding. SS-Stubaf. Prof. Dr.

Vonkennel teilt weiterhin mit, dass eine gewisse Menge des Präparates in den nächsten Tagen hier eintreffen wird. Das Präparat wird dann ebenfalls nach dort weitergeleitet werden.

"Prof. Dr. Vonkennel haelt es fuer unbedingt zweckmaessig, wenn Stubaf. Dr. Ding zu einer orientierenden Aussprache ueber diese recht differente Therapie ihn in seiner Leipziger Klinik aufsuchen wird. Auf die Notwendigkeit absoluter Geheimhaltung durch alle etwa zu beteiligten Stellen wird hingewiesen."

(NO-1184, Ankl.Bow.476, R.5639-40) (Unterstreichungen eingefuegt).

Dieses Dokument zeigt offensichtlich, dass Poppendick sehr wohl wusste, dass Ding nicht nur "ein Serum oder einen Schutzimpfstoff gegen Flecktyphus herstellte", sondern tatsaechlich an lebenden Menschen Versuche anstellte, da ja Poppendick die Versuche in Dings Fleckfieberforschungsabteilung als Alternative zu einer Klinik vorschlug.

Die Beweisaufnahme hat ferner ergeben, dass Vonkennel Poppendick ein Präparat gab, das bei den Experimenten verwandt werden sollte (NO-1182, Ankl.Bow.477, R.5641), der seinerseits es zur gegebenen Zeit an Ding schickte, der den Empfang am 21. Juli 1944 bestaetigte. (NO-1185, Ankl.Bow.478, R.5645). Diese, Poppendick im Kreuzverhoer vorgelagerten Dokumente, machten nicht nur die Glaubwuerdigkeit seiner eigenen Zeugenaussage zunichte sondern auch den Beweiswert der eidesstattlichen Erklaerung von Kimmig und von Vonkennel, werin sie erklaren, dass die Versuchsabteilung in Leipzig niemals etwas mit den Hormonversuchen Vaernots (siehe oben) und mit den Fleckfieber- oder mit Verbrennungsversuchen zu tun hatte. (Poppendick, Bow.7, R.5590; Bow.8, R. 5592).

Die Beweisaufnahme hat ferner ergeben, dass Poppendick Dings Bericht an Krugowsky ueber die Behandlung des Fleckfiebers mit Akridin-Derivaten am 29. September 1944 erhielt. (NO-582, Ankl.Bow.286, R.1122). Dieser Bericht spricht von klinischen Versuchen an lebenden Menschen, aber Poppendick

wusste, dass Ding in der Weise an Menschen experimentiert hatte, dass er Fleckfieber kunstlich hervorrief. Dies wird durch seinen oben zitierten Brief an Krugowsky erwiesen und auch durch die Korrespondenz mit Ding betreffend die Hormonexperimente. Ausserdem wurde von der Verteidigung kein Beweis beigebracht, dass zu jener Zeit, oder zu irgendeiner Zeit, eine Fleckfieberepidemie in Buchenwald herrschte. Der Bericht selbst zeigt recht klar, dass mehr als die Haelfte der Versuchspersonen starb und dass die ueberlebenden Patienten mit schweren Komplikationen zu kaempfen hatten. (NO-582, Ankl.Bew.286, R.1124-5). Die Eintragungen im Ding-Tagebuch vom 13., 14. und 24. April 1943 enthuehlen, dass die in diesen Versuchsreihen verwandten Versuchspersonen tatsaechlich mit fleckfieberinfiziertem Blut kunstlich infiziert wurden und dass 21 Haeftlinge bei diesen Experimenten starben. (NO-265, Ankl.Bew.287, R.1136). Es ist ueberdies durch die oidesstattliche Erklaerung eines Entlastungszeugen festgestellt, dass saemtliche Berichte Dings ueber seine Experimente durch das Hygiene-Institut an Grawitz gingen. (Dok. Krugowsky Bew.13, R.5406, Ziffer 7 der oidesstattlichen Erklaerung, Krugowsky-Dok.Buch, Seite 51). Poppendick hatte auf diese Weise Zugang zu den Einzelheiten der Fleckfieberexperimente.

Ding berichtete ueber die Buchenwalder Versuche bei der Versammlung der Beratenden Aerzte der Wehrmacht im Mai 1943. (NO-923, Ankl.Bew.436, R.2063). Als Stabschef von Grawitz war Poppendick, trotzdem er kein Beratender Arzt der Wehrmacht war, bei dieser Versammlung anwesend. (Poppendick, R.5557). Wenn auch Poppendick den Bericht selbst nicht gehoert haben mag, da er in der Hygiene-Abteilung erstattet wurde, so kann doch daran, dass er von ihm gehoert hat, kein begruendeter Zweifel bestehen. Der Angeklagte Rose ausserte Bedenken gegenueber dem Charakter der Buchenwalder Experimente. (Rose, R.6166). Ein Entlastungszeuge fuer den Ange-

klagten Rose ging sogar so weit, dass er bezeugte, nach dem zu schliessen was Rose sagte, betrachtete er diese Experimente als Mord. (Hooring, R.6073). Er sagte, dass Konzentrationslagerinsassen bei den Experimenten verwandt wurden. (Hooring, R.6074). Man kann nicht glauben, dass Poppendick von einem solch sensationellen Vortrag nicht gehoert haben sollte. Der Vortrag haette in der Tat ohne Wissen und Genehmigung des Grawitz'schen Amtes gar nicht gehalten werden koennen. In Verbindung mit der Ablehnung Poppendicks, dass er nicht darueber informiert wurde, wie Ding seine Experimente ausfuehrte, ist es bezeichnend, dass Balchowsky in seiner eidesstattlichen Erklaerung Poppendick und die Angeklagten Handloser und Gonzken und den verstorbenen Conti als die Foerderer der Flockfieberexperimente in Buchenwald anfuehrt. (NO-484, Ankl.Bow.291, R.1353).

So zeigt die Beweisaufnahme, dass Poppendick nicht nur "seine Zustimmung gegeben hat" zu den Buchenwalder Flockfieberexperimenten und "mit Plaenen und Unternehmen verbunden war", die ihre Begehung zum Gegenstand hatten, und dass er ein Mitglied war einer "Organisation oder Gruppe verbunden mit" ihrer Begehung, sondern auch, dass er "Haupttaetor" und "Teilnehmer" bei der Begehung solcher Verbrechen war. Er muss deshalb gemass Absatz 2 des Artikels II des Kontrollratgesetzes Nr.10 fuer schuldig befunden werden.

D. Sterilisationsexperimente (Anklageschrift, Ziffer 6 (I))

Wegen der Beschreibung des verbrecherischen Charakters dieser Experimente wird auf die Schriftsaetze der Anklagebehoerde gegen die Angeklagten Gebhardt und Brack verwiesen.

Der Angeklagte Poppendick definierte im Kreuzverhoer den Ausdruck "negative Rassenpolitik" folgendermassen:

"Die negative Bevoeelkerungspolitik befasste sich mit allen ausmerzenden Dingen im Gegensatz zur positiven Bevoeelkerungspolitik die Sterilisation, die gesetzmassig im Dritten Reich durchgefuehrt wurde, war negative Bevoeelkerungspolitik". (R.5618-9).

Niemand auf der Anklagebank ist mit der verdorbenen Lehre von der "negativen Bevölkerungspolitik" besser vertraut als Poppendick. Neben seinem Dienst in Grawitzens Amt war er Chefarzt des Rasse- und Siedlungshauptamtes. In Bezug auf dieses Amt sagte das Urteil des Internationalen Militärgerichtshofes: "Das Rasse- und Siedlungsamt der SS zusammen mit der Volksdeutschen Mittelstelle betätigte sich bei der Ausführung von Plänen für die Germanisierung besetzter Gebiete nach den Rasseprinzipien der NS-Partei und waren bei der Deportation von Juden und anderen Staatsangehörigen beteiligt." (Prozess der Hauptkriegsverbrechen, Band I, Seite 270). Unter anderem beteiligte sich dieses Amt an Massregeln zur Ausrottung nichtarischer Gruppen, indem es z.B. bei der Durchführung von Verordnungen zur Unterdrückung des Geschlechtsverkehrs zwischen Deutschen und Slawen und bei der Herbeiführung von Fehlgeburten bei Ostarbeiterinnen und Polinnen half.

Poppendick mochte uns glauben machen, dass er sich nur mit positiver Rassenpolitik befasste (R.5619), aber es ist klar, dass die Politik, die mehr Kinder für "gute" Deutsche und keine Kinder für "minderwertige" Völker verlangt, eine untrennbare Einheit ist. Poppendick wusste sicherlich, was die negative Bevölkerungspolitik war. Wenn er auch während des Kreuzverhoers ausdrücklich bestritt, dass er von den verbrecherischen Sterilisierungsexperimenten wusste oder irgendwie daran teilnahm (R.5621), so zeigt die Beweisaufnahme das Gegenteil.

Am 4. Juni 1941 sandte Poppendick dem Angeklagten Rudolf Brandt eine Liste von Ärzten, die ermächtigt waren, die Unfruchtbarmachung vorzunehmen. Glauberg ist unter den Ärzten aufgeführt. Die Liste selbst ist von Grawitz unterzeichnet und trägt das Datum des 30. Mai 1941. (NO-214, Ankl.Bew.168, R.562). Der von Poppendick unterzeichnete

und vom 4. Juni 1941 datierte Begleitbrief lautet folgendermassen:

"Im Auftrage von SS-Brigadefuehrer Dr. Grawitz ueberreiche ich Ihnen in der Anlage die Aufstellung derjenigen Aerzte, die bereitstehen, die vom Reichsfuehrer-SS gewuenschte Behandlung der Sterilitaet durchzufuehren."
(1639-A, Ankl.Bew.475, R.5628).

Poppendick bestritt, dass die von Grawitz unterzeichnete Liste (NO-214, siehe oben), die auf eine Konferenz mit Himmler am 27. Mai 1944 Bezug nimmt, die Liste war, die er mit seinem Brief vom 4. Juni an Brandt schickte, (NO-1639-A, siehe oben), indem er behauptete, dass die Grawitzsche Liste mit "Staatsgeheimnis" bezeichnet ist. (Poppendick, R. 5629). Es bestand natuerlich kein Grund, Poppendicks Begleitbrief als "Geheim" zu bezeichnen, wenn die Anlage auf diese Weise bezeichnet war. Auch ist der Vermerk auf dem Dokument "Staatsgeheimnis" nicht mit der Maschine sondern mit der Hand geschrieben und kann sehr wohl spaeter in Himmlers Amt hinzugefuegt worden sein. Uebrigens tragen beide Dokumente - Begleitbrief (NO-1639-A, siehe oben) und Liste (NO-214, siehe oben) - dasselbe Aktenzeichen - IV/102/41 - was schon an und fuer sich zeigt, dass Brief und Liste zusammengehoeren und zusammen versandt wurden. Die Konferenz mit Himmler am 27. Mai auf der in der Liste Bezug genommen wird, (NO-214, siehe oben), befasste sich nicht mit "positiver Bevoeelkerungspolitik", sondern diskutierte Sterilisierungsexperimente. Dieses ist erwiesen durch einen am 29. Mai 1941 datierten Brief von Grawitz an Himmler, der folgendermassen lautet:

"Bei der am 27.5.41 im Beisein von Herrn Professor Glauberg stattgefundenen Besprechung ueber dessen neue Methode zur operationslosen Unfruchtbarmachung minderwertiger Frauen ist leider ein Missverstaendnis unterlaufen.

"Prof. Glauberg benoetigt zur Ausarbeitung der Methode die hierfuer bereitzustellenden Frauen bei sich in seiner eigenen Klinik in Koenigshuette oder in der Naeho, da die Methode sich noch in der Ausarbeitung befindet, da Prof. Glauberg hierfuer seinen eigens dazu beschafften klinischen Apparat an Ort und Stelle benoetigt und bei Zwischenfaellen jederzeit zu Operationen persoenlich zur Verfuegung stehen muss.

"Eine nochmalige eingehende Aussprache mit Prof. Clauberg hat ergeben, dass unter diesen Umstaenden eine Durchfuehrung der Versuchsarbeiten in Ravensbrueck nicht in Frage kommen kann.

"Bei der unerhoerten Bedeutung, die ein solches Verfahren im Sinne einer negativen Bevoelkerungspolitik haben wuerde und der daraus sich ergebenden Wichtigkeit, eine einwandfreie Ausarbeitung der Methode mit allen Mitteln zu foerdern, erlaube ich mir daher, Reichsfuehrer, den Vorschlag, Prof. Clauberg ein entsprechendes Forschungsinstitut in oder bei Koenigshuette einzurichten und diesem ein Frauenkonzentrationslager fuer etwa 10 Personen anzugliedern.

"Zustimmendenfalls bitte ich um Ermächtigung, mit SS-Gruppenfuehrer Fohl und SS-Brigadefuehrer Gluecks das weitere in Ihrem Auftrage verhandeln zu duerfen."
(NO-1639, Ankl.Bow.474, R.5625).

Dass dieser Brief und Poppendicks Zeilen an Brandt sich auf denselben Gegenstand beziehen, wird weiter durch die Tatsache bewiesen, dass die Aktennummern dieser beiden im Buero des Angeklagten Rudolf Brandt eingegangenen Dokumente identisch ist, "233/13" (R.5635), und beide als "geheim" bezeichnet sind. (R.5636). Darueber hinaus traegt Poppendicks Brief vom 4. Juni 1941 die Aktennummer "IV/102/41", waehrend Grawitz' Brief vom 29. Mai ueber die Konferenz mit Clauberg in dem Geheimtagebuch als "IV/98/41" eingetragen ist.

Am 7. und 8. Juli 1942 wurde eine andere Konferenz ueber die Sterilisierung von Juedinnen abgehalten, bei der Himmler, Gebhardt, Gluecks und Clauberg anwesend waren. Konzentrationslagerinsassen von Auschwitz wurden Clauberg zur Verfuegung gestellt, und man draengte ihn, so schnell wie moeglich einen Bericht zu erstatten, so dass Massnahmen zur praktischen Verwirklichung der Sterilisierung im groesseren Ausmass getroffen werden koennten. (NO-216, Ankl.Bow.170, R.565; NO-215, Ankl.Bow.172, R.568). Am 10. Juli 1942 erhielt Clauberg den Befehl, Himmler darueber Bericht zu erstatten, wie lange es dauern wuerde, tausend Juedinnen auf diese Weise zu sterilisieren. (NO-213, Ankl.Bow.171, R.567). Am 7. Juni 1943 war Clauberg in der Lage zu berichten, dass es

auf Grund seiner Versuche moeglich sein wuerde, mehrere hundert, wenn nicht gar tausend, taeglich auf diese Weise zu sterilisieren. Er stellte fest, dass Sterilisierung "durch eine einzige Einspritzung vom Eingang der Gebaermutter her und bei der ueblichen gynaekologischen Untersuchung erfolgen kann....." (NO-212, Ankl. Bew. 173, R.570). Ein weiterer Beweis dafuer, dass Clauber Sterilisierungsversuche an Juedinnen in Auschwitz vornahm, findet sich in seinem Brief vom 6. August 1943 an den Angeklagten Rudolf Brandt, in dem er um eine zweite Roentgenanlage fuer seine Versuchsarbeiten in Auschwitz ersuchte. (NO-210, Ankl. Bew. 174, R.572).

Aus dem Beweismaterial geht ferner hervor, dass in vielen K.Z.-Lagern Sterilisierungsversuche in betraechtlichem Umfang vorgenommen wurden. (Siehe Schriftsaetze der Anklagebehoerde gegen Gebhardt und Brack). Die Vornahme dieser Versuche lag in den Haenden von SS-Aerzten, die alle Grawitz, den hoechsten Sanitaetsoffizier in der SS, unterstanden. Es ist unmoeglich, der Behauptung des Angeklagten Poppendick Glauben zu schenken, dass er als Chef von Grawitz'persoenlichen Stab nichts von diesen Sterilisierungsversuchen wusste. Poppendick war "ein Mitglied einer Organisation oder Gruppe, die in Verbindung stand mit" der Vornahme der Sterilisierungsversuche, und er unterstuetzte Clauber'sverbrecherische Versuche persoenlich.

E. Sulfonamidversuche: (Anklageschrift Ziffer 6 (E)).

Hinsichtlich der Beschreibung und des verbrecherischen Charakters dieser Versuche wird auf den Schriftsatz der Anklagebehoerde gegen den Angeklagten Gebhardt verwiesen.

Poppendick leugnete beim direkten und beim Kreuzverhoer, dass er Kenntnis von den Sulfonamidversuchen erhielt. Er gab indessen zu, dass er bei den Vortraegen

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Gebhardt und Fischers auf der Dritten Tagung Ost der Beratenden Aerzte in der Militaeraerztlichen Akademie in Berlin teilgenommen habe, die von 24. bis 26. Mai 1943 stattfand. (Poppendick, R.5572, NO-228, Ankl.Bew. 206, R.767). Er leugnete insbesondere, dass er je Gelegenheit hatte, einen Bericht oder Vorbericht von Gebhardt an Grawitz ueber diese Versuche zu lesen oder zu sehen. (Poppendick R.5617). Der Vorbericht Gebhardts vom 29. August 1942, der Poppendick beim Kreuzverhoer vorgelegt wurde, zeigt klar, dass diese Feststellung unwahr ist. Die Richtigkeit der Abschrift dieses Berichtes wurde von Poppendick fuer Grawitz bestaetigt (NO-2734, Ankl.Bew. 473, R.5622, Seite 6 d. Dok.), und Poppendick musste zugeben, dass die Unterschrift auf diesem Dokument die seine sei. (Poppendick R.5618). Dieser Bericht zeigt klar, dass Sulfonamidversuche an den Insassen des K.z. Ravensbrueck vorgenommen wurden. Es wurde klar zum Ausdruck gebracht, dass Gasbrand kuenstlich hervorgerufen wurde, dass Hobelspaene, Oedema malignum und Erde verwendet wurden, um schlachtfeldaeehnliche Infektionen hervorzurufen, und dass einige der Versuchspersonen zwecks Kontrolle unbehandelt blieben. Kurz, dieser Bericht gibt ein vollstaendiges Bild der von Gebhardt vorgenommenen Sulfonamidversuche. Angesichts dieses offenen und eindeutigen Widerspruchs zwischen der Aussage von Poppendick und dieses, ihm beim Kreuzverhoer vorgelegten Dokument³, kann sein Zeugnis im ganzen nicht als glaubwuerdig angesehen werden.

Ferner wurden vollstaendige Berichte ueber diese Versuche Grawitz: Buero vorgelegt, und Gebhardt und Grawitz korrespondierten fortgesetzt. (Gebhardt, R.4107). Poppendick hatte freien Zugang zu diesem Material. Gebhardt und Fischer hielten auf der Dritten Tagung Ost der Beratenden Aerzte, die von 24. bis 26. Mai 1943 in der Militaeraerztlichen Akademie, Berlin, stattfand,

Vorträge über diese Versuche. Poppendick gab zu, dieser Tagung beigewohnt und Gebhardt und Fischer sprechen gehört zu haben. (Poppendick, R.5572). Gebhardts Zeugnis lief darauf hinaus, dass er sich jeder Tarnung widersetzt habe und bemüht gewesen sei, die ganze Angelegenheit dieser Experimente ans Licht zu bringen. In der Einleitung zu seinem Vortrag gab er ausdrücklich an, dass diese Versuche an lebenden Menschen vorgenommen worden seien. (R.4109). Gebhardt sagte aus, er erinnere sich nicht mit Sicherheit daran, ob er gesagt habe, dass die Versuchspersonen Konzentrationslagerinsassen waren. Der Angeklagte Fischer sagte, dies sei klar zum Ausdruck gebracht worden. (NO-472, Ankl. Bow. 234, R.941; vergl. Fischer, R.4365). In jedem Fall wusste es Poppendick aus dem von Gebhardt am 29. August 1942 geschriebenen Bericht. Die klinischen Einzelheiten der Versuche wurden eingehend von Gebhardt und Fischer erklärt. In der Tagung wurde darüber berichtet, dass Versuche an ungefähr 60 Personen vorgenommen worden seien, dass die Infektionen künstlich hervorgerufen worden seien, dass verschiedene Arzneimittel bei der Behandlung der Infektionen verwendet worden seien, dass von chirurgischer Behandlung Gebrauch gemacht worden sei und drei Personen als Folge davon gestorben seien. (Gebhardt, R.4109-10). Jede Einzelheit wurde erklärt.

Gebhardt sagte aus, dass einer der Gründe für seinen freimütigen Bericht auf der Tagung der Beratenden Ärzte war, die Berechtigung zu diesen Versuchen zur Debatte zu stellen. Er sagte: "Ich bestand darauf, dass ein abgeschlossener Versuch nur dann seine Rechtfertigung überhaupt bekommt, wenn man unter klarer Darstellung des ganzen Ablaufes einer Instanz, die bis dahin nichts damit zu tun hatte, das Ganze vorlegt und fragt, ist das, was ich jetzt daraus folgere, und für die vielen Tausenden der SS einführe, richtig oder falsch, wobei

ich natuerlich auch den persoenlichen Wunsch hatte, dem Namen von mir unter dem Schutz von Fachleuten zu begegnen und den Staat zu zwingen, meine Unterlagen auch oeffentlich anzuerkennen." (R.4115).

Aus diesem Beweismaterial geht ueber jeden begruendeten Zweifel hinaus hervor, dass Poppendick von den im Konzentrationslager Ravensbrueck vorgenommenen Sulfonamidversuchen wusste und sie unterstuetzte.

F. Phlegmon-Versuche.

Die Einzelheiten dieser Versuche, wie sie im Schriftsatz der Anklagebehoerde gegen den Angeklagten Gebhardt enthalten sind, werden durch Bezugnahme darauf zum Bestandteil dieses Schriftsatzes gemacht.

Das Poppendick von diesen Versuchen wusste, wird durch die Tatsache bewiesen, dass Grawitz's Berichte ueber diese Versuche (NO-409, Ankl.Bew.249, R.979), zusammen mit Gebhardts Vorbericht ueber die Sulfonamidversuche, der von Poppendick beglaubigt worden war, einem Begleitbrief von Grawitz an Himmler vom 7. September 1942 angeheftet waren. Der Begleitbrief lautet wie folgt:

- "Betr.: 1. Versuche von SS-Brigadefuehrer Gebhardt zur Bekaempfung des Gasbrandes,
2. Versuche zur Behandlung von Sepsis mit Biochemie.

Anlg.: -2-X

An den

Reichsfuehrer-SS H. Himmler,

B e r l i n

Reichsfuehrer!

In der Anlage erlaube ich mir einen Zwischenbericht von SS-Brigadefuehrer Prof. Dr. Gebhardt ueber die von ihm im KL.-Ravensbrueck eingeleiteten klinisch-chirurgischen Versuche, ferner einen zusammenfassenden Zwischenbericht ueber die im KL.-Dachau durchgefuehrten Behandlungsversuche von Sepsis usw. mit biochemischen Mitteln vorzulegen." (NO-2734, siehe oben).

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Der Bericht ueber die biochemische Behandlung von Sepsis ist datiert 29. August 1942 und traegt das Aktenzeichen 738/IV 42; obgleich die englische Uebersetzung irrtuemlich das Datum 29. August 1943 zeigt. Weiterhin lautet Gebhardts handschriftlicher Vermerk auf dem Sepsisbericht "Ravensbrueck 3.9.42." Es kann also kein Zweifel darueber bestehen, dass der unter Nr. 2 im Begleitbrief erwahnte Bericht Grawitz's Bericht ueber die Sepsisversuche in Dachau ist. (NO-409 oben). Der Bericht fuehrt aus, dass acht Faelle von Sepsis meistens kuenstlich hervorgerufen wurden und dass alle von ihnen starben. Zwei andere Versuchspersonen starben ebenfalls. Grawitz, keineswegs durch den toedlichen Ausgang entmutigt, ordnete die Fortsetzung der Versuche an. (NO-409, Ankl.Bew. 249, R.981). Dass die Versuche fortgesetzt wurden, wird durch die Krankheitsgeschichte Versuchsperson bewiesen, die in Dachau am 10. November 1942 kuenstlich mit Sepsis infiziert wurde. (NO-994, Ankl.Bew. 251, R.985).

G. Polygal-Versuche.

Hinsichtlich der Beschreibung und verbrecherischen Natur der Polygalversuche wird auf den Schriftsatz der Anklagebehoer gegen den Angeklagten Gebhardt verwiesen. Aus dem Tagebuch des Angeklagten Sievers fuer das Jahr 1944 geht hervor, dass Popplendick an einer Konferenz mit Grawitz und Dr. Floetner am 23. Mai jenes Jahres teilnahm. Das Ergebnis dieser Konferenz war, dass Floetner die Forschungsstation von Rascher uebernahm. Am 8. September 1944 traf Popplendick Verkehren, damit Dr. Floetner weiterhin zur Verfuegung des Reichsforschungsrats stehen wuerde. (3546-7 Ankl.Bew. 123, R.362, Eintragungen vom 23. Mai und 8. September). Dass Floetner die Polygalversuche unter sich hatte, wird durch die Eintragungen vom 29. Juni und 31. Maerz erwiesen, die besagen, dass Floetner

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die Leitung der Versuche uebernehmen solle, da Rascher nicht in der Lage sei, das zu tun und weiterhin durch die Eintragungen von 14. April, 18. Mai, 1. Juni und 6. Oktober in Sievers Tagebuch. Am 23. Oktober informierte Sievers Poppendick direkt dass Ploetner die biologische Forschung uebernehmen sollte. (3546-PS oben).

Der Beweis ist also gefuehrt, dass Poppendick von den Polygalversuchen in K.Z. Dachau, ⁱⁿ deren Verlauf Versuchspersonen erschossen wurden, wusste und dazu ermutigte. (NO-438, Ankl. Bew. 240, R.956; NO-1424, Ankl. Bew. 462, R.4773; Steohr, R.587; Gebhardt, R.4240-1).

H. Malaria-Versuche. (Anklageschrift Ziffer 6 (C)).

Poppendick stand auch mit den von Dr. Schilling in Dachau vorgenommenen verbrecherischen Malariaversuchen in Verbindung. Diese Versuche sind in Schriftsatz der Anklagebehoerde gegen Rose beschrieben.

Dr. Ploetner war einer der Hauptmitarbeiter von Schilling bei seinen Versuchen. (3546-PS, Ankl.Bew. 123, R.382, Eintragung am 1. Juni; Rose R.6339). Das Tagebuch von Sievers von Jahre 1944 beweist, dass am 23. Mai 1944 eine Konferenz ueber Ploetners Arbeit abgehalten wurde. Grawitz, Poppendick, Sievers und Ploetner nahmen teil. Rascher war kuerzlich in einen Skandal verwickelt worden wegen der Entfuhrung von Kindern, auf die er als seine eigenen Anspruch erhob. Am demselben Tag, an dem die Konferenz mit Grawitz und Poppendick stattfand, wurde Ploetner die Leitung von Raschers Abteilung im Ahnenerbe uebertragen. (3546-PS oben). Am 31. Mai 1944 sanktionierte Grawitz die Fortsetzung der Zusammenarbeit zwischen Ploetner und Schilling. (Siehe auch die Eintragungen unter dem 30. Januar, 22. Februar, 24. August und 8. September). Weiterhin konferierte Sievers am 23. Oktober 1944 mit Poppendick bezueglich der Uebernahme der biologischen

Untersuchungen in Dachau durch Ploetner. (3546-PS, oben).

Poppendick gab zu, durch Grawitz von Schillings Versuche in Dachau Kenntnis erhalten zu haben. (R.5567). Diese Versuche dauerten bis Kriegsende fort, und eine beträchtliche Anzahl der über Tausend unfreiwilligen Versuchspersonen starben. (NO-856, Ankl.Bew. 125, R.386).

I. Seewasserversuche (Anklageschrift, Ziffer 6 (G))

Die Seewasserversuche sind im Schriftsatz der Anklage gegen Schroeder beschrieben.

Poppendick war Mitglied einer Organisation oder Gruppe (Grawitz), die mit der Vornahme dieser Versuche in Verbindung stand. Grawitz billigte sie ausdrücklich. (NO-179, Ankl.Bew. 135, R.485). Fernerhin stellte Ploetner, mit dessen Arbeit Poppendick eng verbunden war, (siehe oben), den Arbeitsraum zur Verfügung, wo die Versuche durchgeführt wurden. (3546-PS, Ankl.Bew. 123, R. 382, Eintrag unter dem 20. Juli 1944).

J. Kälteversuche (Anklageschrift, Ziffer 6 (B))

Wegen einer eingehenden Beschreibung der Kälteversuche darf auf den Schriftsatz der Anklagebehörde gegen Sievers verwiesen werden.

Am 13. Januar 1945 konferierte Rascher mit Grawitz und dem Angeklagten Poppendick bezüglich der Kälteversuche. Rascher berichtete über die Kälteversuche mit Wasser und umriss auch die Versuche mit Trockenkälte. Grawitz wies darauf hin, dass Rascher nach seiner Versetzung zur Waffen-SS Grawitz unterstellt sein würde und alle Berichte diesen vorzulegen seien. Er sagte, dass es "ein unhaltbarer Zustand sei, dass ein Nichtarzt, etwa Standartenführer Sievers, mir Auskünfte über ärztliche Dinge geben soll....." Poppendick sagte: "Ich habe Standartenführer Sievers schon mehrmals zu mir bitten müssen, um

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Auskünfte zu erhalten, letztendendes landen ja doch alle medizinischen Dinge bei uns." Grawitz ging dazu über, ein von Rascher über die Behandlung von Trockenerfröhrungsfällen geschriebenes Memorandum aus dem Grund zu kritisieren, dass Raschers Versuche mit Wasserunterkühlung nicht unbedingt darauf Anwendung finden könnten und zu wenig Trockenerfröhrungsversuche an menschlichen Versuchspersonen vorgenommen worden seien. (NO-320, Ankl.Bow. 103, R.338).

Dieses Dokument beweist nicht nur Poppendicks Beteiligung an den Kälteversuchen, sondern es geht auch daraus hervor, dass er als Gehilfe von Grawitz über alle Versuche an Konzentrationslagerinsassen informiert wurde. Er selbst sagte, dass alle medizinischen Angelegenheiten "bei uns" endeten, und dass er von Sievers verlangt habe, ihm Bericht zu erstatten. Das einzige ärztliche Gebiet, über das Sievers irgendwie Bericht erstatten konnte, waren die von Ahnenerbe unterstützten verbrecherischen Versuche.

Poppendick gab zu, dass er an dieser Konferenz teilnahm und dass die Kälteversuche nach diesem Zeitpunkt fort dauerte (R.5564). Als Grawitz bei dieser Konferenz darauf bestand, dass Raschers Theorien durch wenigstens 100 Trockenerfröhrungsversuche bewiesen würden, setzte Rascher sein barbarisches Werk fort. Am 17. Februar 1943 berichtete er Himmler über Trockenerfröhrungsversuche an 30 Häftlingen, die gezwungen wurden nahezu 14 Stunden bei Gefriertemperatur nackt im Freien zu bleiben. Ihre Hände und Füße waren weissgefroren. (1616-PS, Ankl.Bow. 105, R.342). Am 4. April 1943 war Rascher wiederum in der Lage, über zusätzliche Trockenerfröhrungsversuche bis 6° Kälte Bericht zu erstatten.

K. Epidemische-Gelbsucht-Versuche (Anklageschrift, Ziffer 6 (H)).

Die Epidemischen-Gelbsuchtversuche wurden von Grawitz auf Befehl von Karl Brandt eingeleitet. Am 1. Juni 1943

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erbat Grawitz Himmlers Zustimmung zur Verwendung von Konzentrationslagerhäftlingen fuer diese Versuche; man rechnete mit Todesfaellen. (NO-010, Ankl. Bew. 137, R. 735). Acht polnische Juden wurden in Sachsenhausen zur Verfuegung gestellt. (NO-011, Ankl. Bew. 188, R. 737). Einige Versuchspersonen starben. (NO-371, Ankl. Bew. 186, R. 733). Zur Zeit, als diese verbrecherischen Versuche stattfanden, war Poppendick schon lange als wichtiger Mitarbeiter von Grawitz taetig gewesen.

III. SCHLUSS

Poppendick war ein sehr altes Mitglied der SS. Er machte den Sanitaetsdienst der SS zu seinem Beruf und stieg zum Rang eines Oberfuhrers auf. Er war der engste und vertrauteste Mitarbeiter von Grawitz. Er nahm an vielen Konferenzen ueber verbrecherische Versuche an Konzentrationslagerhäftlingen teil. Er unterstuetzte solche Experimente, und mehrere wurden von ihm veranlasst.

Poppendick befasste sich mit den Arbeiten der Forschungsabteilung V (Vonkennel), die von Grawitz's Buero finanziert wurde. Die Brandbomben- und Hormonversuche im Konzentrationslager Buchenwald wurden von ihm in Zusammenarbeit mit dieser Abteilung in die Wege geleitet. Er erhielt Berichte ueber diese Versuche. Er veranlasste, dass Insassen fuer die Hormonversuche zur Verfuegung gestellt wurden. Zwei Versuchspersonen verstarben als Folge dieser Hormonexperimente.

Poppendick veranlasste durch ^{Fleck-}Drugowsky, dass /Fiebertersuche durch Ding in Buchenwald vorgenommen wurden, um ein von der Forschungsabteilung V entwickeltes Arzneimittel zu pruefen. Er billigte eine Abhandlung Dings ueber Fleckfieberversuche zur Pruefung von Akridin-Derivaten, in deren Verlauf 21 Insassen getoetet wurden. Er wusste, dass Fleckfieber bei diesen Versuchen kuenstlich hervorgerufen wurde.

Die von Clauberg vorgenommenen verbrecherischen Sterilisierungsversuche waren Poppendick bekannt und wurden von ihm unterstützt. Er beglaubigte einen Zwischenbericht seitens Gebhardt hinsichtlich der Sulfonamidversuche. Er hörte die Vorträge von Gebhardt und Fischer über diese Versuche mit an. Er wusste auch von den in Dachau von Grawitz angeordneten Sepsisversuchen.

Er beteiligte sich an Konferenzen über die Arbeit von Floetner in Dachau, der Rascher bei den Polygalversuchen und Schilling bei den Malariaversuchen unterstützte und der Raschers Forschungsstation 1944 übernahm. Er traf an, dass Floetner vom Reichsforschungsrat unterstützt wurde. Die Seewasser- und Epidemischen-Gelbsuchtversuche wurden von Grawitz gebilligt. Floetner stellte den Platz für die Meerwasserversuche in Dachau zur Verfügung.

Poppendick konferierte mit Grawitz und Rascher über Erfrierungsversuche. Auf Grund von Anweisungen, die bei dieser Konferenz ergingen, führte Rascher weitere Trockenerfrierungsversuche aus. Poppendick gingen Berichte über andere verbrecherische Versuche zu, die vom Ahnenerbe unterstützt wurden.

Die Anklagebehörde unterstellt, dass das Beweismaterial ergibt, dass Poppendick Haupttaäter, Teilnehmer, Anstifter, Vorschubleistender war, seine Zustimmung gab und in Verbindung stand mit Plänen und Unternehmungen, die die Durchführung medizinischer Experimente an lebenden Menschen ohne Zustimmung der Betroffenen zum Gegenstand hatten, und ein Mitglied einer in Verbindung damit stehenden Organisation oder Gruppe war, in deren Verlauf Morde, Brutaltaten, Grausamkeiten, Folterungen, Greueltaten und andere unmenschliche Handlungen begangen wurden und dass seine Schuld im Sinne der Punkte I, II, III und IV der Anklageschrift erwiesen ist.

"ENDE"

Ich, Fred Lax, # X 046207, bestaetige hiermit,
dass ich durchaus vertraut mit der englischen und
deutschen Sprache bin und dass das Vorstehende eine
wahrheitsgemaesse und richtige Uebersetzung des
Dokumentes "Loppendick" darstellt.

Nuernberg, 3. Juli 1947

Fred Lax
X 046207

M I L I T A E R G E R I C H T S H O F N R. I

PROZESS NR. 1

SCHLUSSPLAYDOYER

FUER DIE VEREINIGTEN STAATEN VON AMERIKA

GEGEN

GERHARD ROSE

James M. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

Fuer:

Felford Taylor
Brigadier General U.S.A.
Hauptanklaeger fuer Kriegs-
verbrechen

Nuernberg,
den 16. Juni 1947



EINLEITUNG

Es wird im wesentlichen behauptet, dass der Angeklagte Rose unter dem Anklagepunkt I der Anklageschrift mit anderen nach einem gemeinsamen Plan sich verabredete und einwilligte, medizinische Versuche an unfreiwilligen Versuchspersonen auszuführen; und unter Punkt II und III (Kriegsverbrechen und Verbrechen gegen die Menschlichkeit), dass er Haupttaeter, Teilnehmer, Anstifter, Vorschubleistender war, seine Zustimmung gab und in Verbindung stand mit Plaenen und Unternehmungen, die die Durchfuehrung medizinischer Experimente ohne Zustimmung der Betroffenen an lebenden Menschen zum Gegenstand hatte.

Der Angeklagte Rose wird im besonderen der Teilnahme an den im Abschnitt 6 (D) der Anklageschrift aufgefuehrten Malariaversuchen und den im Abschnitt 6 (J) aufgefuehrten Fleckfieberversuchen beschuldigt. Um die Sachlage zu vereinfachen, hat die Anklagebehoerde die Beschuldigung der Teilnahme an Hepatitis-Epidemica-Versuchen, wie sie im Abschnitt 6(H) der Anklageschrift aufgefuehrt sind, zurueckgezogen.

I. STELLUNG UND VERANTWORTUNG

Der Angeklagte Gerhard Rose ist seit vielen Jahren Facharzt fuer Tropenmedizin. Im Jahre 1937 uebernahm er die Leitung der Abteilung fuer Tropenmedizin des Robert-Koch-Instituts in Berlin. Im Jahre 1943 wurde er Vizepraesident des Robert-Koch-Instituts, aber in der Praxis uebte er in jenem Amt keine Taetigkeit aus, da sein Dienst bei der Luftwaffe seine Zeit voll in Anspruch nahm. (R.6085). Er trat der nationalsozialistischen Partei im Jahre 1930 bei. (R.6087).

Am 26. August 1939 erhielt er die Stellung eines beratenden Hygienikers beim Sanitaetsinspekteur der Luft-

waffe, zu jener Zeit Erich Hippke. (R.6092). Er bekleidete die Stellung bis zum Kriegsende und stieg schliesslich bis zum Range eines Generalarztes der Reserve, gleich Brigadier General, auf. (R.6094). Als sich der Krieg auf Afrika, Italien, dem

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Balkan, Griechenland, Kreta und Russland ausbreitete, wurde die Tropenhygiene von grosser Bedeutung. (R.6095). Vom Jahre 1941 an verbrachte Rose seine ganze Zeit im Dienste der Luftwaffe (R.6094; Rose Dok.13, Rose Bew.22, R.6228).

Rose war der Hauptberater des Sanitaetsinspektors der Luftwaffe und seines ganzen Amtes. (R.6096 u. ff.). Schroeder, der Chef des Sanitaetswesens der Luftwaffe, erklarte, dass Rose von allen Forschungsarbeiten, die die Beratenden Hygieniker, wie Haagen, auf Anweisung der Luftwaffe ausfuehrten, in Kenntnis gesetzt werden musste. (NO-449, Ankl.Bew.130, R.471). Schroeder bestaetigte diese Erklarung waehrend seiner Zeugenaussage vor dem Gerichtshof. (R.3609). Roses Stellung gegenueber dem Chef des Luftwaffensanitaetswesens muss auseinandergehalten werden von der Stellung der den Luftflotten zugeweilten Beratenden Hygieniker, wie z.B. der von Haagen, der der Luftflotte "Reich" zugeweiht war. Rose empfing Berichte der den Luftflotten zugeweilten Beratenden Hygieniker (Rose Dok. 7, Rose F.w. 7, R.6108).

Ob nun Rose den Beratenden Hygienikern der Luftflotten Anweisungen erteilen konnte, oder ob er eine Befehlsgewalt irgendwelcher Art hatte, ist von geringer Bedeutung. Es wird nicht bestritten, dass Rose Berater des Leiters des Sanitaetswesens der Luftwaffe in Fragen der Hygiene war. Er war somit der wichtigste beratende Hygieniker der Luftwaffe und der Hauptsachverstaendige fuer hygienische Probleme. Bedeut-

sario Fragen der Hygiene innerhalb der gesamten Luftwaffe kamen ihm zur Kenntnis. Auf Grund seiner Stellung kann nicht bestritten werden, dass er beim Chef des Sanitätswesens der Luftwaffe einen grossen Einfluss hatte, soweit es sich um Sachen der Hygiene handelte.

Vom Jahre 1944 bis zum Kriegsende war Rose auch medizinischer Berater des Angeklagten Handloser, als dem Chef des Sanitätswesens der Wehrmacht. Er war medizinischer Berater von Dr. Conti fuer mit Tropenkrankheiten zusammenhaengende Angelegenheiten. Conti war Staatssekretaer fuer Gesundheitswesen und Leiter des zivilen Sanitätsdienstes, dem das

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Robert-Koch-Institut unterstellt war. (NO-673, Ankl.Bew.15, R.108).

II. PERSOENLICHE TEILNAHME AN VERBRECHERISCHEN EXPERIMENTEN.

A. Malaria

In Bezug auf die Malariaversuche sind zwei Fragen in Erwaeugung zu ziehen: erstens, ob die Malariaversuche in verbrecherischer Weise ausgefuehrt wurden und zweitens, ob der Angeklagte Rose mit solchen Versuchen in Verbindung stand.

Dass die Vornahme von Malariaversuchen im Konzentrationslager Dachau vom Februar 1942 bis zum Kriegsende verbrecherisch war, ist von keinem der Angeklagten ernstlich bestritten worden. Dr. Klaus Schilling traf im Dezember 1941, waehrend er in Italien arbeitete, Conti, der daran interessiert war, weitere Arbeiten Schillings ueber das Malariaproblem zu unterstuetzen. Ein Zusammentreffen mit Himmler wurde arrangiert, der seine Zustimmung zu Versuchen im Konzentrationslager Dachau gab. Schilling begann seine Arbeit im Februar 1942 und fuehrte seine Versuche bis zum Kriegsende fort. Er beschaeftigte sich in erster Linie damit, ein Verfahren zu

entdecken, um Personen gegen Malaria immun zu machen. Im Laufe der Versuche wurden etwa 1200 Konzentrationslagerhäftlinge mit Malaria infiziert, indem man sie entweder von infizierten Moskitos stechen liess oder durch Einspritzung von malarialinfiziertem Blut. Nachdem die Gefangenen infiziert worden waren, wurden sie mit verschiedenen Präparaten, einschliesslich Chinin, Neosalvarsan und Pyramiden behandelt. Die meisten der Versuchspersonen waren nichtdeutsche Staatsangehörige. Von den infizierten Versuchspersonen starben ungefähr 30 direkt infolge der Versuche, und weitere 300 bis 400 starben infolge von Komplikationen.

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Die obigen Tatsachen sind durch den Bericht der Allgemeinen Militärischen Kommission in dem Prozess der Vereinigten Staaten gegen Weiss und Genossen, der in Dachau, Deutschland, stattfand, festgestellt. (NO-856, Ankl.Bew.125, R.386). Klaus Schilling war in jenem Prozess Angeklagter, wurde ueberfuehrt und zum Tode verurteilt. In einer, jenen Gerichtshof als Beweismaterial vorgelegten eidesstattlichen Erklärung, datiert vom 30. Oktober 1945, gab Schilling zu, dass die Versuchspersonen keine Freiwilligen waren.

Einer von Schillings Assistenten bei seinen Versuchen in Dachau war Dr. Floetner, der Mitglied des unter den Angeklagten Sievers stehenden Instituts fuer Wehrwissenschaftliche Zweckforschung des ^{en} Ahn~~er~~bes war. Sievers besprach sich mit Floetner wegen der Malariaversuche und empfing von ihm Berichte. (3546-PS, Ankl.Bew. 123, R.382; Eintragungen fuer den 30. Januar, 22. Februar, 23. Mai, 31. Mai, 1. Juni, 24. August). Rose erklarte, dass er von der Tatsache, dass Floetner ein Mitarbeiter Schillings war, durch eine Anfrage bei der Zeitschrift fuer Tropenmedizin im Jahre 1944 erfuhr. Floetner hatte in jener Zeitschrift einen Artikel veroeffentlicht, und dieser war Rose zur Kenntnis gekommen (R.6339).

Der Zeuge August Vieweg legte fuer die Anklagebehoerde Zeugnis ab und erhaertete die Feststellungen der Militaerischen Kommission in Dachau. Vieweg wurde zuerst selbst den Malariaversuchen unterworfen und arbeitete spaeter als Gehilfe in der Malariastation. Vieweg bezeugte, dass Schilling an ungefaehr 1100 Insassen, darunter Deutsche, Polen, Russen und Jugoslawen, Versuche vornahm. Unter den verwundeten russischen Haeftlingen befanden sich Kriegsgefangene. Sieben oder acht der Versuchspersonen starben in der Malariastation, in der Hauptsache als Folge der Pyramidonvergiftung (R.428). Er bezeugte auch, dass weitere 60 Haeftlinge seines Wissens nach starben, nachdem sie von der Versuchsstation verlegt worden waren. Er erklaerte ferner, dass keiner der Haeftlinge

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sich freiwillig meldete, dass er selbst es nicht tat, und dass die Versuchspersonen auf Grund ihrer Teilnahme an den Versuchen nicht freigelassen wurden. Die Infektionstabelle aus den Akten Schillings in Dachau, die das Datum der Infizierung des Zeugen Vieweg mit "Kultur Rose" zeigt, wurde in Original vorgelegt. (NO-983, Ankl.Bew.128, R.467).

Siehe auch die Zeugenaussage von Heinrich Stoeck (R.584-5).

Der Angeklagte Rose nahm an den verbrecherischen Experimenten Schillings teil, indem er ihm Material zur Ausfuehrung seiner Experimente zur Verfuegung stellte. Dieses Material wurde von Rose zur Verfuegung gestellt in Kenntnis der Tatsache, aus denen jeder vernuenftige Mensch gefolgert haben wuerde, dass Schilling verbrecherische Versuche ausfuhrte. Rose kannte Schilling seit vielen Jahren und war sein Nachfolger als Chef der Abteilung fuer Tropenmedizin im Robert-Koch-Institut. Ausserdem war Rose nach seinen eigenen Gestand-

nis

Berater Dr. Contis, der Vorkehrungen traf, damit Schilling seine Experimente in Dachau ausführen konnte. Es ist höchst unwahrscheinlich, dass eine solche Vorkehrung ohne Befragen Roses getroffen worden wäre.

Rose stellte Schilling Malaria-Milz fuer seine Versuche in Italien waehrend des Jahres 1941 zur Verfuegung, eine Tatsache, die Rose auf dem Zeugenstand bestritt, bis er durch seinen von 3. Februar 1941 datierten Brief an Schilling widerlegt wurde. (NO-1756, Ankl.Bew. 486, R.6411). Rose stellte Schilling weiterhin Infektionsmaterial zur Verfuegung, nachdem er seine Versuchsstation in Dachau eingerichtet hatte. Rose und seine Zeugen gaben zu, dass Anopheleseier im Jahre 1942 an Schilling geschickt wurden; Rose aber erliess nach jenem Vorfall Anweisungen, dass kein Material mehr an Schilling geschickt werden sollte, weil er mit seinen Forschungszielen nicht uebereinstimmte. (R.6415). Am 4. April 1942 schrieb Schilling an Rose und bat um die "Rose-Kultur" zur Fortsetzung seiner Experimente. Dieser Brief traegt die Datumszeile "Dachau 3 K, Haeftlingskrankenhaus" und wurde von Rose am 17. April 1942 abgezeichnet. Schilling

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erklaerte, dass er fuer "diese neue Unterstuetzung meiner Arbeit.....sehr dankbar"sein wuerde. (Unterstreichung hinzugefuegt). Dass Rose diese Bitte Schillings erfuehlte, ist erwiesen, da der Zeuge Vioweg ja selbst mit der Rose-Kultur infiziert wurde.

Am 5. Juli 1943 dankte Schilling in einem Brief ebenfalls mit der Notiz "Dachau K 3, Malariastation" Rose fuer eine Sendung Atroparvuseier und nahm Roses Anerbieten, ihm seine ueberfluessigen Eier zu liefern, an. Dieser Brief erwaeht den "Haeftling August", der offensichtlich der Zeuge

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August Vieweg war. Dieser Brief wurde von Rose am 27. Juli abgezeichnet (NO-1753, Ankl.Bew. 488, R.6418). Unter demselben Datum antwortete Rose auf Schillings Brief und teilte ihm mit, dass ihm bei der naechsten guenstigen Gelegenheit eine Sendung Anopheleseier zugeschickt wuerde.

Es ist unmoeglich zu glauben, dass Rose nicht wusste, was Schilling mit dem ihm von Rose zur Verfuegung gestellten Material anfang. Es kann nicht bestritten werden, dass Rose wusste, dass Schilling Malariaversuche an Menschen vornahm. Es kann nicht bestritten werden, dass Rose wusste, dass Schilling im Konzentrationslager Dachau arbeitete. Rose war kein simpler Zuechter von Anopheleseiern, der jeden, der kam, seine Eier verkaufte. Er war sich schon lange der Tatsache bewusst geworden, dass an Konzentrationslagerhaeftlingen, ohne deren Einwilligung, Versuche vorgenommen wurden. Er erfuhr dies anfangs 1942, als er das Konzentrationslager Buchenwald besuchte und die Fleckfieberversuche Dr. Jings sah. Im Mai 1942 ersuchte er selbst Krugowsky, in Buchenwald mit einem Impfstoff, den er von Professor Ruge in Bukarest erhalten hatte, Versuche durch Ding anstellen zu lassen (Siehe unten).

Im Oktober 1942 wohnte Rose der "Kaeltetagung" der Luftwaffe in Nuernberg bei und hoerte die Vortraege Holzloehners und Raschers ueber die Kaeltversuche in Dachau. Diese Vortraege liessen klar erkennen, dass die Versuche an

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Konzentrationslagerinsassen vorgenommen wurden, und dass einige davon infolgedessen gestorben waren. Er gab zu, dass er nach seinem Vortrag in Nuernberg mit Holzloehner gesprochen habe und dieser ihm von seinen "seelischen Hemmungen" wegen der Teilnahme an den Dachauer Experimenten erzael

habe. Holzloehner sagte: "Niemals in seinem Leben moechte er noch einmal einen solchen Befehl bekommen". (R.6470),

Bei dieser Kenntnis ist es unmöglich, die Schlussfolgerung zu ziehen, dass Rose nicht wusste, was Schilling tat. Ein Mann, der selbst an Versuchen an Konzentrationslagerhäftlingen, ohne deren Einwilligung, teilnahm, kann nicht sagen, dass er nicht wusste, dass ein anderer Mann, dem er Infektionsmaterial fuer Malariaversuche zur Verfuegung stellte, das gleiche tat. Die Anklagebehoerde braucht nicht zu beweisen, dass Rose eine Zaehlung der von Schilling gebrauchten Versuchspersonen vornahm. Doch kann ein Mann auch nicht angesichts der ihm zuganglichen Tatsachen die Augen schliessen und dann versuchen, der Verantwortung dadurch zu entgehen, dass er sich auf Unwissenheit beruft.

B. Fleckfiebersversuche im Konzentrationslager Natzweiler.

Das Beweismaterial der Anklagebehoerde in Dokumenten und Zeugenaussagen enthaelt die vollkommene Geschichte der waehrend des Verlaufs der Fleckfiebersversuche im Konzentrationslager Natzweiler begangenen Verbrechen. Die Versuche selbst wurden von Stabsarzt Professor Eugen Haagen, Beratendem Hygieniker der Luftflotte Reich und Direktor des Hygiene-Instituts der Universitaet Strassburg, ausgefuehrt. Der Zweck dieser Versuche war im wesentlichen derselbe wie der in Buchenwald, naemlich die Entdeckung und Herstellung eines wirksamen Fleckfieber-Impfstoffes. Nach dem Angriff auf Russland wurde Fleckfieber eine ernsthafte Gefahr fuer die Wehrmacht. Vor dem Krieg war Fleckfieber in Deutschland eine Krankheit, die keine Bedeutung hatte. Haette es keinen vom Dritten Reich gefuehrten Angriffskrieg gegeben, so haette sich keine Gelegenheit fuer

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diese fieberhaften Bemuehungen um die Entwicklung des Fleckfieber-Impfstoffes, und in Verbindung damit, die Ausfuehrung

von verbrecherischen Experimenten an unfreiwilligen menschlichen Versuchsobjekten ergeben. (Rose R.6394).

Schon im Juni 1943 stand Rose im Schriftwechsel mit Haagen darueber, die Herstellung von Impfstoff am Hygienischen Institut der Strassburger Universitaet aufzunehmen. (NO-305, Ankl.Bew.295, R.1385). In seinen Brief vom 9. Juni 1943 an Haagen schreibt Rose, dass er den Sanitaetsinspekteur der Luftwaffe gebeten habe, beim Chef des Sanitaetswesens der Wehrmacht, dem Angeklagten Handloser, darauf zu dringen, den Befehl zur Herstellung des Fleckfieber-Impfstoffes fuer die gesamte Wehrmacht in der oestlichen Zone zu geben. (NO-306, Ankl.Bew. 296, R.1387). Handloser ueberwachte die Verteilung der Fleckfieber-Impfstoffe. (Rose R.3690).

Am 4. Oktober 1943 schrieb Haagen an Rose ueber seine Plaene hinsichtlich der Impfstoffherstellung. In dem gleichen Brief bespricht er einen Bericht, den Rose ueber die Ipsen-Impfstoffe aus Kopenhagen geschickt hatte, und sagt darin, da er sich selbst auch mit einem aehnlichen murinen Impfstoff beschaeftigt haette. Er faehrt fort:

"Die ersten Erfolge der Impfung an Menschen habe ich Ihnen bereits zahlenmaessig mitgeteilt. Der Serumtititer liegt ja ganz erheblich hoeher, auch nach einmaliger Impfung im Vergleich zu 3-maligen Impfungen mit den abgetoeteten Impfstoffen. Leider ist es mir nicht moeglich gewesen, bisher noch Infektionsversuche an den Geimpften vorzunehmen; ich hatte mich an das Ahnenerbe der SS gewandt, um von dort geeignete Impflinge zu bekommen, bin aber noch ohne Nachricht geblieben. Wir nehmen jetzt noch eine weitere Impfung an Menschen vor; ich werde Ihnen dann ueber den Ausfall berichten. Ich glaube, dass wir dann soweit sind, zunaechst auch ohne Infektionsversuche unseren neuen Impfstoff zur Einfuehrung vorschlagen zu koennen."

Nachdem er Rose gebeten hatte zu versuchen, mehr Leute fuer ihn zu besorgen, faehrt Haagen fort:

"Wenn wir Menschen zur Probeimpfung durch die SS bekommen, waere dies eine Gelegenheit, auch den Leberimpfstoff auf seine antiinfektioese Wirkung zu pruefen. Ich wuerde dann vorschlagen, dass parallel mit den Ipsenproben auch unser Material verwandt wird.

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"Wir koennen uns ueber alle diese Dinge ja noch in Wien unterhalten." (NO-2874, Ankl.Bew. ,R.).

Auf diese Weise erhielt Rose, noch bevor die Infektionsversuche vorgenommen wurden, genau Mitteilung von dem, was Haagen plante. Weitere Einzelheiten wurden ihm gelegentlich des verabredeten Zusammentreffens mit Haagen in Wien zugesagt. Eine Zusammenkunft der Deutschen Gesellschaft fuer Innere Medizin wurde im Oktober 1943 in Wien abgehalten. (Handloser R. 3043). Dieses Dokument laesst Roses Luege, dass "Infektion" in Wirklichkeit eine Impfung mit abgeschwaechtem avirulentem Impfstoff bedeutete, vollkommen zusammenbrechen. Haagen hatte bereits Impfungen vorgenommen, und er beabsichtigte, den Impfstoff ohne Infektionsversuche zu empfehlen, weil die SS ihm noch keine Haeftlinge fuer diese Versuche zur Verfuegung gestellt hatte. Die Aussage des Zeugen Georg Hirtz beweist, dass Haagen seinen Impfstoff in Schiraneck, einem Aussenlager von Natzweiler, im Sommer 1943 ausprobiert hatte. Annaehernd 20 polnische Haeftlinge wurden fuer diese Versuche verwendet, und der Impfstoff war anscheinend so virulent, dass zwei der Versuchspersonen starben (R.1293). Anscheinend hatte Haagen den Impfstoff zur Zeit seines Briefes an Rose vom Oktober 1943 noch weiter verbessert.

Dass Rose gewusst hat, dass Haagen Infektionsversuche mit virulenten Flecktyphus-Erregern vorhatte, ist ebenfalls ^{dadurch} dadurch bewiesen, dass er in dem Brief vom 4. Oktober 1943 auf die vorgeschlagenen Versuche mit dem Leberimpfstoff

(Ipsen) hinsichtlich seiner antiinfektiosen Wirkung Bezug nimmt. Dieser Ipsen-Impfstoff war ein toter Impfstoff, und doch sollte auch er durch Nachinfektion ausprobiert werden. Dies war auf Roses eigenen Vorschlag zurueckzufuehren, den er in einem Bericht ueber den Ipsen-Impfstoff im September 1943 an Haagen gemacht hatte. (Rose Dokument 22, Rose Bew. 21, R.6216). Von Ertraeglichkeitsversuchen mit dem Ipsen-Impfstoff kann keine Rede sein, da er, nach Roses eigenem Bericht, bereits auf seine Reaktion hin ausprobiert war.

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Haagen richtete seine Bitte um Haeftlinge fuer Versuchszwecke in einem Brief vom 16. August 1943 an den Angeklagter Sievers als den Geschaeftsfuehrer des Ahnenerbes. Sievers stimmte dieser Bitte am 30. September 1943 zu, (NO-120, Ankl. Bew. 297, R.1387) aber augenscheinlich war diese Mitteilung noch nicht eingegangen, als Haagen am 4. Oktober an Rose schrieb. Einhundert Haeftlinge wurden Anfang November 1943 in das Natzweiler Konzentrationslager ueberfuehrt. Von diesen starben 18 waehrend des Transportes, und der Rest war in einem derartig bedauernswerten Gesundheitszustand, dass Haagen sie als fuer seine Versuche wertlos befand. Er bat um weitere wirklich gesunde Haeftlinge durch Vermittlung von Dr. Hirt von der Strassburger Universitaet, der Mitglied des Ahnenerbes war. (NO-121, Ankl. Bew. 293, R.1369). Rose gal im direkten Verhoer zu, dass diese Versuchsobjekte kaum Freiwillige gewesen sein konnten, da es sich augenscheinlich um eine vorhergegangene Auswahl und eine Ueberfuehrung von irgendeinem anderen Lager nach Natzweiler handelte, wo die Versuche durchgefuehrt werden sollten. (R.6289).

Niemand konnte einen Bericht ueber diesen verbrecherischen Transport von 100 Personen fuer medizinische Versuche, die in einem derartig geschwaechten Zustand waren, dass 18

starben und nur 12 durch zwei- bis dreimonatliche besondere Pflege vielleicht ihre Gesundheit wieder erlangen konnten, lesen, ohne sich ueber die Schrecknisse eines deutschen Konzentrationslagers klar zu werden. Und diese Angelegenheit ist von Haagen an Rose am 29. November 1943 berichtet worden, (NO-1059, Ankl.Bew. 490, R.6427) obwohl Rose ausdruecklich die Kenntnis davon ableugnete, bis ihm das Dokument in Kreuzverhoer vorgelegt wurde (R.6425). Noch wenige Wochen vorher hatte Rose mit Holzloehner gesprochen (siehe oben). Inzwischen hatte Rose schon selbst darum geboten, den Bukarest-Impfstoff in Buchenwald auszuprobieren, und Infektionsversuche zu diesem Zwecke durchgefuehrt. Nur wenige Tage spaeter ging er daran, Versuche in Buchenwald mit demselben Ipsen-Impfstoff aus Kopenhagen, wie in Haagens Brief vom 4. Oktober 1943 erwachnt, zu fordern (siehe unten).

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Mit einem Brief vom 29. November 1943 sandte Haagen einen Bericht an Rose ueber seinen getrockneten Fleckfieberimpfstoff und schrieb, dass er bei der SS weitere 100 Haeftlinge angefordert haette, da die erste Gruppe unbefriedigend gewesen waere.

Am 13. Dezember 1943 schrieb Rose an Haagen als Antwort auf einen Brief vom 8. Dezember, der nicht als Beweismaterial vorliegt. Rose sagt darin:

"Ich halte es fuer unzuemaessig, dass neben dem von Ihnen bereits gestellten Antrag ein erneuter Sonderantrag beim SS-Hauptamt gestellt wird. Ich bitte Sie, bei der Beschaffung der Impflinge fuer Ihren Versuch von vornherein eine entsprechende Anzahl von Impflingen fuer den Kopenhagener Impfstoff miteinzusetzen. Das hat ohnehin den Vorteil, der sich auch in den Versuchen von Buchenwald gezeigt hat, dass die Pruefung verschiedener Impfstoffe nebeneinander grossere Klarheit ueber die bessere oder schlechtere Wirkung des Impfstoffes gibt als die Pruefung eines Impfstoffes allein." (NO-122, Ankl.Bew.298, R.1388).

Dies ist nicht der Brief eines Mannes, der keine Aufsichts-
befugnis ueber Haagens Versuche hatte. Tatsaechlich hat er
Haagen gesagt, was er tun sollte: "Erproben Sie den Kopen-
hagener (Ipsen)-Impfstoff in Reihenversuchen an Haeftlin-
gen". Und das konnten nur Infektionsversuche sein, da sonst
keinerlei Grund vorlag, den Ipsen-Impfstoff auszuprobieren.
Wie bereits oben erwaeht, war die Ertraeglichkeit bereits
an Menschen ausprobiert worden.

Dass die weiteren 100 Haeftlinge von Haagen zu Versuchs-
zwecken fuer virulenten Flecktyphus verwandt worden sind, ist
ganz klar. Am 9. Mai 1944 schrieb Haagen einen Brief an Hirt
und fuegte eine Abhandlung ueber seine Versuche mit getrock-
neten Fleckfieberimpfstoff bei (NO-123, Ankl. Bew. 303,
R. 1396). Er erwaehte, dass dieser Bericht an den Chef des
Sanitaetswesens der Luftwaffe gegangen war. Weiterhin
bemerkt Haagen:

"Es ist gelungen, mit diesem Impfstoff nicht nur
eine antitoxische, sondern, was von besonders
praktischer Bedeutung sein duerfte, auch eine
ausgesprochen antiinfektiuese Immunitaet zu
erzielen."

Antitoxische Immunität ist das Charakteristikum eines Impfstoffes, das die Krankheitsauswirkung vermindert, während die anti-infektiöse Immunität die Eigenschaft eines Impfstoffes ist, die die Krankheit gänzlich verhindert. Diese typischen Eigentümlichkeiten konnten selbstverständlich nur durch künstliche Flecktyphuserregung bei Versuchsobjekten vermittelt eines virulenten Erregers festgestellt werden. Haagen war nicht mehr daran interessiert nur die Erträglichkeitsgrenze der Versuchsobjekte gegen den Impfstoff auszubastieren. Damals schon stellte er Versuche mit anti-infektiöser Immunität an, wie der Brief ganz deutlich zeigt. Es ist ganz klar, dass diese Versuche an den 100 Konzentrationslagerhäftlingen, die Haagen anfangs 1944 bekommen hatte, durchgeführt wurden. Dies ist weiterhin bewiesen durch die Tatsache, dass Haagen im gleichen Brief vom 9. Mai 1944 Hirt bittet, ihm weitere 200 Konzentrationslagerhäftlinge zu vermitteln.

Noch mehr Licht auf das was mit diesen 200 Versuchsobjekten geschehen ist, wirft der Brief vom 7. Juli 1944 an Haagen, der sich mit dem Bericht vom 8. Mai 1944 befasst. (NO-128, Ankl.Bew.307, R.1402). Dieser Brief war von Luxenburger unterzeichnet, Rose hat aber zugegeben, dass er Haagens Bericht vom 8. Mai 1944 gelesen hat, und er hat auch ausgesagt, dass seine Kommentare zu diesem Bericht umfangreicher als die in dem vorliegenden Brief waren. (R.6291). Rose wusste, dass dieser Brief abgeschickt werden sollte. Dieser Brief beanstandet Haagens Bericht aus den Gründen, "dass die Darstellung der Infektionsergebnisse in den Bildern 1 und 2 von der üblichen Darstellung der Impfstoffergebnisse fuer Fleckfieber abweicht und die Auswertung fuer den Leser erschwert". Hier haben wir eine klare Unterscheidung zwischen Infektion und Impfung, und diese widerlegt wiederum Roses Bemerkungen, den Inhalt der Dokumente so zu verdrehen, als ob er Impfung mit avirulentem Impfstoff bedeutet. Dieses Dokument beweist, dass Nachinfektionen an den 100 Versuchspersonen durchgeführt worden sind.

Ausserdem erwahnt es Kontrollpersonen. Wenn nur einfache Vertraeglichkeitsversuche mit dem Impfstoff angestellt worden waeren, wuerden sich Kontrollpersonen offensichtlich eruebrigen. Bei solchen Versuchen ist man lediglich an der Reaktion auf den besonderen Impfstoff interessiert. Haagen hatte Vertraeglichkeitsversuche mit diesem Impfstoff mindestens schon um die Mitte des Jahres 1943 angestellt, und wir haben hier mit den Versuchen, die zu Anfang 1944 ausgefuehrt wurden, zu tun.

Der Brief vom 29. August 1944 von Kahnt, dem Chef des Stabes des Angeklagten Schroeder, an Haagen beweist ebenfalls, dass die 100 Versuchspersonen einer Infektion mit einem virulenten Flecktyphuserreger unterworfen wurden. (NO-131, Ankl.Bew.309, R.1404). Dieser Brief nimmt Bezug auf einen Bericht Haagens vom 21. Juni 1944, der wiederum ganz deutlich auf die Versuche Bezug nimmt, die mit der Gruppe von 100 Haeftlingen angestellt worden waren, da Haagens Bitte vom 9. Mai 1944 um 200 Konzentrationslagerhaeftlinge am 27. Juni 1944 noch nicht erfuehrt worden war. (NO-127, Ankl.Bew.306, R.1401). Kahnt empfiehlt Haagen die Versuche mit dem getrockneten Flecktyphus-Impfstoff weiter fortzusetzen, wozu ihm RM 4.000,- zur Verfuegung gestellt wurden. Er fragte dann noch bei Haagen an, ob anzunehmen sei, dass die damals im August 1944 in Natzweiler herrschende Flecktyphusepidemie mit den Impfstoff-Forschungen zusammenhinge. Es wuerde natuerlich kein Grund vorgelegen haben, eine solche Frage zu stellen, wenn es nicht bekannt gewesen waere, dass Haagen Infektionsversuche mit virulenten Flecktyphuserregern machte.

Rose hat versucht, diese Anfrage damit zu erklaren, dass er befuerchtete, dass die von Haagen verwandten avirulenten Flecktyphus-Impfstoffe moeglicherweise hochgradig virulent geworden waeren. (R.6'04). Diese Erklaerung ist mehr als laecherlich, da nach Roses eigenem Zustaendnis Haagen bereits berichtet hatte, dass keinerlei Krankheiten bei seinen Impflingen aufgetreten seien. Rose wiederholte immer wieder, dass keine Todesfaelle durch die Impfungen

mit dem avirulenten Murin-Impfstoff oder mit den avirulenten Rikettsia-Prowazeki-Impfstoff eingetreten waeren. (R.6292). Es ist offensichtlich ganz unmoeglich, dass ein avirulenter Impfstoff, der keine Krankheit bei den Impflingen hervorgerufen hatte, irgendwie der Urheber einer Flecktyphusepidemie haette sein koennen. Es kann nur angenommen werden, dass Haagen sich mit Infektionsversuchen durch virulente Flecktyphuserreger beschaeftigte; dass diese Tatsache sowohl Rose als auch dem Sanitaetswesen der Luftwaffe genau bekannt war, und dass nach dem Ausbruch der Flecktyphusepidemie in Metzweiler, wo die Versuche durchgefuehrt wurden, Rose anfragte, ob die Epidemie durch Haagens Infektionsversuche verursacht worden waere. Kahnt schliesst seinen Brief vom 29. August mit einem Verweis fuer Haagen, dass er es unterlassen habe, seinen Bericht vom 21. Juni 1944, in dem er Einzelheiten der Metzweiler Versuche anfuehrt, nicht als Geheim zu bezeichnen.

Schliesslich muss noch in Verbindung mit diesem Beweisstueck darauf hingewiesen werden, dass die Luftwaffe Haagens Fleckfieber-Forschungsarbeiten unterstuetzt hat, bis Strassburg im September 1944 in die Haende der Alliierten fiel. Es kommt hier nicht darauf an, dass Haagen ausserdem vielleicht noch vom Reichsforschungsrat finanziell unterstuetzt worden ist, wie es aus den Dokumenten als sicher hervorzugehen scheint. Wenn auch der Reichsforschungsrat sicher in Haagens verbrecherischer Versuche verwickelt ist, so entschuldigt dies doch in keiner Weise die Angeklagten Schroeder, Rose und Becker-Froysong, die Haagen Forschungsaufgaben stellten, ihm finanzielle Unterstuetzung angedeihen liessen und Berichte von ihm in Empfang nahmen.

Haagens letzte Versuchsserie, die uns hier angeht, war die, die an den 200 Konzentrationslagerhaeftlingen durchgefuehrt wurde, die Haagen am 9. Mai 1944, wie oben angefuehrt, angefordert hatte. In einem weiteren Brief an Hirt vom 27. Juni 1944, schrieb Haagen ausdruecklich, dass Infektionsversuche durchgefuehrt werden wuerden. Er schrieb:

"Bei den nachfolgenden zur Pruefung des erzielten Impfschutzes vorzunehmenden Infektionen mit virulentem Fleckfiebererreger ist dagegen mit Erkrankungen zu rechnen, insbesondere bei der Parallelgruppe von nicht Geimpften. Diese Nachinfektionen sind erforderlich, um die antiinfektioese Wirksamkeit der Trockenimpfstoffe eindeutig festzustellen. Fuer die Schutzimpfung werden diesmal 150 Personen, fuer die Kontrollinfektionen 50 Personen angesetzt." (NO-127, Ankl.Bew.303, R.1401).

Selbst der Angeklagte Rose fand es sehr schwer, diesen Brief wegzudiskutieren. In seinem eigenen Zugestaendnis konnte er sich nur in Mutmassungen ergoehen. (R.6295). Hirt leitete diese Anforderung Haegens, die urspruenglich am 9. Mai 1944 gemacht worden war, an den Angeklagten Sievers weiter, der seinerseits einen Brief an Oswald Pohl richtete, den Chef des SS-Wirtschafts- und Verwaltungs-Hauptamtes, dem alle Konzentrationslager unterstellt waren. (NO-008, Ankl.Bew.304, R.1398).

Immerhin brauchen wir uns nicht auf die Dokumente allein zu verlassen. Die Aussage der Zeugin Edith Schmidt, einer Angestellten von Haegen, stellt unwiderlegbar fest, dass diese 200 Konzentrationslagerhaeftlinge von Haegen fuer Infektionsversuche im Konzentrationslager Natzweiler benutzt worden sind. Sie sagte aus, dass Haegen mit einem Trockenimpfstoff arbeitete, der aus rickettsia prowazeki und Huchnerkulturen hergestellt war; dass Haegen virulente Fleckfiebererreger in seinem Strassburger Laboratorium in den Gehirnen von Meerschweinchen zuechtete; dass ein Teil der Versuchshaeftlinge in Natzweiler geimpft und dann mit dem virulenten Erreger infiziert wurde, und dass der andere Teil, die Kontrollpersonen, ohne vorherige Impfung infiziert wurde; dass sie die Notizen ueber diese Versuche, die von Frl. Credal, der Assistentin Haegens, aufgezeichnet waren, gesehen habe; dass sie feststellen konnte, dass an 150 - 200 Haeftlingen Versuche angestellt wurden, dass ungefaehr 50 der Versuchspersonen, einschliesslich der Kontrollpersonen, starben, und dass Personen jeder Nationalitaet fuer diese Versuche verwandt wurden,

in erster Linie Zigeuner. (R.1370-1). Soviel sich Frl. Schmidt erinnert, fanden diese Versuche im Fruhjahr oder Sommer 1944 statt. Er scheint aus den Dokumenten ganz klar hervorzugehen, dass sie im Juli 1944 stattgefunden haben mussten. Die einzige Bemerkung des Angeklagten Rose zu dieser Zeugenaussage war, dass ^{er} Frl. Schmidt als Morphinistin bezeichnete. Wie immer das auch sein mag, es scheint ziemlich offensichtlich zu sein, dass, um eine solche Feststellung zu treffen, Rose wenigstens vorübergehend mit dieser Dame bekannt war.

Es ist durchaus moeglich, dass der vom 29. August 1944 datierte, von Kahnt an Haagen gerichtete und auf die Seuche in Natzweiler bezugnehmende Brief mit dieser letzten von Haagen durchgefuehrten Versuchsreihe in Zusammenhang stand. (NO-131, Ankl.Bew.309, R.1404). Auf jeden Fall hat die Luftwaffe damals noch Haagens Forschungsarbeiten unterstuetzt. Saemtliche im Dokumentenbuch Nr. 12 der Anklagebehoerde enthaltenen Dokumente zeigen in der Tat, dass Haagen vom Jahre 1942 bis zum Kriegsende Berater der Hygieniker der Luftflotte Reich war und dass er waehrend dieser ganzen Zeit durch den Sanitaetsdienst der Luftwaffe fortlaufend unterstuetzt wurde. Im April 1944 waren Haagens Plaene zur Errichtung einer Station am Hygienischen Institut der Universitaet Strassburg fuer die Herstellung von Fleckfieberimpfstoff fuer die Wehrmacht schon weit fortgeschritten. (NO-310, Ankl.Bew.318, R.1419).

Die einzige Verteidigung gegenueber dem von der Anklagebehoerde ueber die Haagenschen Versuche vorgelegten Beweismaterial, wurde von dem Angeklagten Rose vorgebracht. Auf ihren einfachsten Nenner gebracht, war sie, dass Rose den Gerichtshof bittet, zu glauben, dass "Infektion" in Wirklichkeit nicht mehr bedeutete als Impfung mit einem avirulenten Fleckfieberimpfstoff. Diese Unterstellung wird durch das oben angefuehrte dokumentarische Beweismaterial und durch die Zeugenaussagen vollkommen widerlegt. Ueberdies hat Rose selbst in seiner Zeugenaussage einen klaren Unterschied zwischen Infektion und Impfung gemacht. (R.6172-3).

Die Dokumente selbst lassen diesen Unterschied ganz klar erkennen: Dem Gerichtshof wird keine spitzfindige Frage der Auslegung gestellt. Die Zeugenaussagen von Edith Schmidt und Georg Hirtz sind ueberzeugend und werden mehr oder weniger durch das Zeugnis der Olga Eyer (R.1755, u.ff.), des Ferdinand Hell (R.1058-9), des Henri-Jean Grandjean (R.1103-5) und durch die eidesstattliche Erklaerung von Dr. Victor Eugene Schuh belegt. (NO-885, Ankl.Bew.314, R.1413). Dieses Beweismaterial kann nicht durch die Aussage eines Angeklagten widerlegt werden, dessen Glaubwuerdigkeit im Verlaufe des Kreuzverhoers wiederholt in Zweifel gezogen werden musste (siehe oben und unten).

C. Fleckfieberversuche im Konzentrationslager Buchenwald.

Der verbrecherische Charakter der im Konzentrationslager Buchenwald durch Dr. Ding-Schuler, hauptsaechlich unter der Aufsicht des Angeklagten Krugowsky in dessen Eigenschaft als Leiter des Hygienischen Institutes der Waffen-SS, durchgefuehrten Fleckfieberversuche wurde ausfuehrlich in dem Schriftsatz gegen Krugowsky behandelt und braucht hier nicht wiederholt zu werden. Wir haben uns hier lediglich mit der Teilnahme des Angeklagten Rose an diesen Versuchen zu beschaeftigen.

Rose hat niemals bestritten, dass er die Fleckfieberstation in Buchenwald anfangs 1942 besuchte. (R.6434). Er hat angegeben, dass er mit Professor Gildemeister vom Robert-Koch-Institut zur Inspektion dorthin kam. Er hat die 145 Insassen gesehen, die mit dem virulenten Fleckfiebererreger infiziert worden waren. (R.6436). Er hat sich die Fieberkurven dieser Haefdlinge angesehen. Er hat ferner bezuagt, dass er sowohl vor wie nach diesem Besuch aus moralischen Gruenden gegen die Versuche war. Er behauptete Gildemeister gesagt zu haben, dass das Robert-Koch-Institut genau so gut eine Hinrichtungsabteilung einrichten koenne. (R.6407).

Das Ding'sche Tagebuch stellt das Datum von Roses Besuch in Buchenwald als den 17. Maerz 1942 fest. (NO-265, Ankl.Bew.287)

R.1127). Die Eintragung vom 19. August 1942 betrifft die Versuchsreihe Nr. II, in der 20 Personen nach dem Verfahren von Durano und Giroud und 20 Personen nach dem Verfahren von Combiescu, Zotta und ihren Mitarbeitern, mit dem von Cantacuzino in Bukarest hergestellten Impfstoff geimpft wurden. Der Cantacuzino-Impfstoff wurde, wie das Tagebuch feststellt, von Professor Rose zur Verfügung gestellt, der ihn seinerseits vom Marinerezt Professor Rugo aus Bukarest erhielt. Die vorher geimpften 40 Personen wurden am 15. Oktober 1942 zusammen mit 19 ungeimpften Kontrollpersonen mit virulenten Fleckfiebererregern infiziert. Als Ergebnis dieser Versuchsreihe starben vier der Kontrollpersonen.

Rose hat die Richtigkeit der obigen Eintragung in dem Ding'schen Tagebuch bestritten. Er hat bestritten, jemals Impfstoff an Krugowsky oder Ding zu Prüfungszwecken nach Buchenwald geschickt zu haben. Er hat bestritten, dass Krugowsky ihn jemals um Impfstoff zur Verwendung bei Fleckfieberexperimenten gebeten oder dass er jemals mit Krugowsky in dieser Hinsicht verhandelt habe. (R.6460). Dieses Zeugnis des Rose wurde durch das Anerbieten im Schreiben Krugowskys an Rose vom 16. Mai 1942 vollständig widerlegt. (NO-1754, Ankl.Bow.491, R.6460). Dieses Schreiben hat den folgenden Wortlaut:

"Der Reichserzt SS und Polizei hat die Durchführung der Versuche zur Prüfung von Fleckfieber-Lungenimpfstoffen genehmigt. Ich darf Sie daher um Uebermittlung der Impfstoffe bitten.

Auch die andere von Ihnen aufgeworfene Frage, ob sich die Laus an einem schutzgeimpften Fleckfieberkranken infizieren kann, wird aufgegriffen werden. Grundsätzlich liegt auch hierfür die Genehmigung vor. Im Augenblick aber ergeben sich noch einige Schwierigkeiten in der praktischen Durchführung, da wir zur Zeit noch keine Lausenzuchten besitzen.

Ihre Anregung wegen einer Verwendung von Olzecha ist an die Personalabteilung des SS-Sanitätsamtes weitergeleitet worden. Zur gegebenen Zeit wird ihr Rechnung getragen werden."

Damit ist die Eintragung in dem Tagebuch Dings voll bestätigt.

Nach Vorlage dieses Dokumentes gab Rose in der Tat zu,

dass er den Bukarester Impfstoff an Krugowsky zur Pruefung i Buchenwald geschickt habe. (R.6463). Aus dem Text des Briefes ist klar ersichtlich; dass Rose vorher entweder telephonisch oder brieflich Krugowsky geboten hatte, den Bukarester Impfstoff, den er von Ruge erhalten hatte, in die verbrocherischen Versuche Bings in Buchenwald miteingubringen. Darnach sicherte sich Krugowsky die Zustimmung von Grawitz, dem Reichsarzt SS und Polizei, und in diesem Brief an Rose bittet er diesen um den Impfstoff. Rose bat Krugowsky weiterhin, in Buchenwald festzustellen, ob die Leus durch einen geimpften Fleckfieberkranken infiziert werden kann. Das wuerde natuerlich einen Versuch einschliessen, bei welchem die Leus wiederum fuer den Versuch, eine ungeimpfte Person zu infizieren, verwendet wuerde. Rose gab ferner zu, dass der Hinweis auf Olzscha in Zusammenhang mit einer Bemerkung stand, diesen Mann im Hygienischen Institut der Waffen-SS unter Krugowsky unterzubringen. Olzscha war ein Assistent Rosas gewesen und stand vor seiner Einberufung zur Waffen-SS. (R.6463). Eine am Fuss dieses Briefes mit Schreibmaschine geschriebene Notiz von Frau Block, der Sekretarin von Rose und Entlastungszeugin fuer ihn vor diesem Gerichtshof, besagt, dass Dr. Krugowsky darum bat, nach Rueckkehr Rosas telephonisch angerufen zu werden, dass Krugowsky im Juni nicht in Berlin sein wuerde und dass sein Vertreter, Dr. Ding, Bescheid wisse.

Dieser Brief beweist, dass Rose wenige Wochen nach seinem Besuch in der Fleckfieberstation in Buchenwald und in voller Kenntnis der Art der dort durchgefuehrten Versuche vorsatzlich den Anstoss zu den Versuchen mit dem Bukarester Impfstoff in Buchenwald gab, die dazu fuehrten, dass 4 der Haeftlinge starben.

Rose sagte aus und berief Zeugen, um zu beweisen, dass er sich gelegentlich des Berichtes Dings bei der Zusammenkunft der Beratenden Aerzte der Wehrmacht im Mai 1943 mit Nachdruck gegen die Fleckfieberversuche in Buchenwald ausgesprochen habe. Die

Anklagebehörde hat eingeraumt, dass Rose gewisse Einwände vorbrachte, sei es aus wissenschaftlichen oder moralischen Gründen. Wie immer das auch sein mag, die Anklagebehörde hat den Beweis erbracht, dass Roses moralische Bedenken ihn nicht daran hinderten, von neuem aktiv an den verbrecherischen Versuchen in Buchenwald teilzunehmen. Die Eintragung vom 8. März 1944 in Dings Tagebuch handelt von der Versuchsreihe Nr. VIII, die von dem Angeklagten Rose angeregt worden war. Zwanzig Personen wurden mit dem Ipsen-Impfstoff aus Kopenhagen geimpft und in der Folge durch Einspritzungen mit flockfieberversuchtem Blut, das man "Zwischenträgern" entnahm, infiziert. Zehn Häftlinge wurden als Kontrollpersonen verwendet und ohne vorhergehende Impfung infiziert. Die Eintragung vom 13. Juni 1944 beweist, dass diese Versuche den Tod von sechs Personen zur Folge hatten, von denen drei geimpft worden waren und drei Kontrollpersonen waren. Diese Eintragung wurde dem Angeklagten Rose beim Kreuzverhoer entgegengehalten, und er bestritt wiederum die Richtigkeit der Eintragung. (R.6452, 6463). Rose bestritt, den Kopenhagener Impfstoff an Krugowsky oder Ding zur Prüfung in Buchenwald geschickt zu haben. (R.6224). Wiederum wurde Rose durch Vorlage seines Briefes an Krugowsky vom 2. Dezember 1943 (NO-1186, Ankl.Bew.492, R.6463) vollkommen der Unwahrheit überführt. Dieser Brief hat folgenden Wortlaut:

"Ich verfüge augenblicklich ueber eine Anzahl von Proben eines neuen Flockfieberimpfstoffes aus murinem Virus, der aus Lausoleber bereitet ist und im Tierversuch quantitativ eine 1000fach ueberlegene Wirkung gegenueber Impfstoff aus Lauselungen erwies. Fuer die Entscheidung, ob man diesen hochwertigen murinen Impfstoff beim Menschen zur Schutzimpfung gegen Lausoleberflockfieber verwenden soll, waere es wuensenswert zu wissen, ob in der Versuchsanordnung von Ihnen und Ding in Buchenwald sich eine aehnliche Schutzwirkung zeigt wie bei den Impfstoffen aus klassischen Virus. Waeren Sie in der Lage, eine derartige Versuchsreihe durchfuehren zu lassen?"

Ich konnte Sie z.Zt. leider nicht telefonisch erreichen. Bei der langsamen

Postverbindung waere ich fuer einen telefonischen
Bescheid dankbar. Keine Nummern, die alle zu
der gleichen Zentrale fuehren, sind: Berlin 27 83 13
Schnellamt Berlin 09, Zossen 559
Luftwaffenvermittlung 72, dort zu verlangen
RM, L.L. In.14. "

In diesem Schreiben ersucht der Angeklagte Rose ausdruecklich
Krugowsky, Versuche zur Pruefung des murinen-Ipsen-Fleckfieber-Impfstof-
fes durch Ding in Buchenwald durchfuehren zu lassen. Dieser Brief wurde
spaeater von Krugowsky an Ding weitergeleitet und traegt dessen Unter-
schrift am Fussende. Dieses Dokument bestaetigt die Eintretung in Dings
Tagebuch und spricht in hohem Masse fuer die peinliche Genauigkeit der
vor diesem Gerichtshof abgelegten Aussage des Belastungszeugen Kogon.
Nach Lesen dieses Briefes gab Rose zu, dass er ihn unterzeichnet habe
und Krugowsky tatsaechlich ersucht habe, den Impfstoff in Buchenwald
zu erproben. (R.6464-5).

In Anbetracht des klaren und eindeutigen Widerspruches zwischen
Roses Zeugenaussage und dem Inhalt der ihm waehrend des Kreuzverhoers
vorgelegten Dokumente kann seine Aussage als Ganzes nicht als glaubwuer-
dig angesehen werden. Es ist unmoeglich anzunehmen, selbst wenn man sei-
ner Einbildungskraft freies Spiel laesst, dass ein Mann, der den Ablauf
der Versuche in Buchenwald mit ansah, der angegeben hat, dass er sich
gegen diese Versuche ausgesprochen hat, sich nicht daran erinnern kann,
dass er die Durchfuehrung zweier Versuchsreihen unter Bedingungen, die
ihm als verbrecherisch bekannt waren, persoenlich veranlasste. Nicht
ein einziger Milderungsgrund kann zu Gunsten dieses Mannes angefuehrt
werden. Er ist ein Fachmann auf dem Gebiete der Tropenmedizin, und seine
Intelligenz steht weit ueber dem Durchschnitt. Er wusste, was vorging.
Er ist das lebende Beispiel eines Mannes, der sich ohne Gefahr fuer seine
Person oder Stellung seitens irgendwelcher Organe der nationalsozialisti-
schen Regierung, von einer Teilnahme an diesen Verbrechen haette fernhal-
ten koennen. Er hat ausgesagt, dass er sich den Versuchen widersetzte.
Er wurde nicht von der SS verhaftet und vor Gericht gestellt. Er wurde
in kein Konzentrationslager eingeliefert. Trotzdem nahm er freiwillig
gerade an diesen Verbrechen teil, denen er sich, wie er angibt, wider-

setzte. Bei seinem Wissen, seinem Ansehen und seiner Stellung ist seine Schuld noch grösser als die des erbarmlichen und unerfahrenen Ding, der die Versuche in den Moristationen Buchenwalds tatsächlich durchführte.

III. SCHLUSS.

Rose war der Beratende Hygieniker des Chefs des Sanitätswesens der Luftwaffe.

Rose unterstützte aktiv Schillings verbrecherische Malariaversuche in Dachau. Er wusste, dass Schilling Versuche an Konzentrationslagerhäftlingen in Dachau durchführte. Die Beweisaufnahme hat ergeben, dass er Schilling mit Anopheles-Eiern, Atroparvus-Eiern, "Stamm-Rose" und Malaria-Milz versorgte. Dieses gesamte Infektionsmaterial wurde unmittelbar an Schilling in Dachau übersandt. Rose korrespondierte mit Schilling während der Versuche. Schilling dankte ihm für die Unterstützung seiner Arbeit. Rose unterstützte Schillings Versuche zu einer Zeit, als er von den systematischen Versuchen an Konzentrationslagerhäftlingen, ohne deren Einwilligung, Kenntnis hatte. Er hatte bereits

(Seite 22 des Originals)

die Fleckfieberstation in Buchenwald besucht und Krugowsky gebeten, Versuche dort durchzuführen zu lassen. Er war bereits über die mörderischen Kältversuche in Dachau unterrichtet worden.

Rose nahm an den von Haagen an unfreiwilligen Versuchspersonen im Konzentrationslager Natzweiler durchgeführten Fleckfieberversuchen teil. Haagen war Beratender Hygieniker einer Luftflotte, und seine Berichte wurden Rose vorgelegt. Rose wurde von Haagen bereits im Oktober 1943 davon unterrichtet, dass er Fleckfieberinfektionsversuche durchzuführen beabsichtigte. Rose versorgte Haagen mit dem Ipsen-Impfstoff und wusste von Haagens Absicht, diesen Impfstoff mittels Fleckfieberinfektionsversuchen zu erproben. Dies war der gleiche Impfstoff, den Rose im Jahre 1944 in Buchenwald erprobt hatte. Rose wusste, dass Haagen 100 Konzentrationslagerhäftlinge für Infektionsversuche ausgewiesen erhalten hatte, von denen 18 während des Transportes starben.

Rose wusste, dass Haagen in der Folge weitere menschliche Versuchsobjekte zugewiesen erhielt. Er ersuchte Haagen, eine genügend grosse Anzahl Haeftlinge anzufordern, um den Ipsen-(Kopenhagen)-Impfstoff zu erproben. Rose wusste, dass Haagen im Jahre 1944 Infektionsversuche durchfuehrte. Er veranlasste einen Brief an Haagen, in dem angefragt wird, ob seine Fleckfieberversuche fuer die Seuche in Natzweiler verantwortlich seien. Die Beweisaufnahme ergibt, dass Haagens Fleckfieberversuche den Tod von ungefaehr 50 Menschen verursachten.

Rose nahm auch an den Fleckfieberversuchen in Buchenwald teil. Im Maerz 1942 besuchte er die Versuchsstation und sah einige der Haeftlinge, die kuuenstlich mit Fleckfieber infiziert worden waren. Im Mai 1942 ersuchte Rose Krugowsky, Versuche mit dem Bukarester Impfstoff anzuordnen. Diese Versuche wurden mit dem von Rose gelieferten Impfstoff durchgefuehrt, wobei als Ergebnis vier Versuchspersonen getoetet wurden. Im Dezember 1943 ersuchte Rose Krugowsky, den Ipsen-(Kopenhagen)-Impfstoff in Buchenwald pruefen zu lassen. Diese Versuchsreihe wurde zwischen Maerz und Juni 1944 durchgefuehrt, wobei sechs Versuchsoefer starben.

Keinerlei mildernde Umstaende koennen zu seinen Gunsten angefuehrt werden. Rose ist ein Mann von ausserordentlicher Intelligenz. Er handelte in voller Kenntnis des Umstandes, dass Konzentrationslagerhaeftlinge systematisch dazu gezwungen wurden, sich hoechst gefaehrlichen Versuchen zu unterziehen. Die Anklagebehoerde unterstellt, dass das Haupttater, Beweismaterial den Nachweis dafuer erbringt, dass Rose/Teilnehmer, Anstifter, Verschueblender war, seine Zustimmung gab und in Verbindung stand mit Plaeenen und Unternehmungen, die die Durchfuehrung medizinischer Experimente, ohne Zustimmung der Betroffenen, an lebenden Menschen zum Gegenstand hatten, wobei im Verlaufe solcher Experimente Morde, Brutaltaten, Grausamkeiten, Folterungen, Grauelthaten und andere unmenschliche Handlungen begangen wurden, und dass seine Schuld gemass Anklagepunkt I, II und III der Anklageschrift erwiesen ist.

"Ende"

Ich, Fred Lax, # X 046207, bestaetige hiermit, dass ich durchaus vertraut mit der englischen und deutschen Sprache bin, und dass das Vorstehende eine wahrheitsgemaeße und richtige Uebersetzung dieses Dokumentes darstellt.

Nuernberg, 16. Juni 1947

Fred Lax
X 046207

MILITÄRGERICHTSHOF No. I

FALL No. 1

ZUSAMMENFASSENDE SCHRIFTSATZ
DER VEREINIGTEN STAATEN VON AMERIKA
-GEGEN-
PAUL ROSTOCK

James M. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

Nuernberg,
16. Juni 1947

Fuer:

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War Crimes



EINFUEHRUNG

Unter Punkt I der Anklageschrift wird der Angeklagte Rostock im wesentlichen beschuldigt, dass er sich mit anderen Personen im Verfolge eines gemeinsamen Vorhabens zu einer Verschwörung und Uebereinkunft zusammengefunden hat, um medizinische Experimente an lebenden Menschen ohne deren Zustimmung vorzunehmen; unter Punkt II und III (Kriegsverbrechen und Verbrechen gegen die Menschlichkeit), dass er Haupttaator, Teilnehmer, Anstifter, Vorschubleistender gewesen ist, seine Zustimmung gegeben und mit Plänen und Unternehmen in Verbindung gestanden hat, die die Durchführung medizinischer Experimente an lebenden Menschen ohne Zustimmung der Betroffenen zum Gegenstand hatten. Die Verbrechensmerkmale sind in Abs. 2 des Artikels II des Kontrollratsgesetzes Nr.10 niedergelegt.

I. STELLUNG UND VERANTWORTUNG

Der Angeklagte Rostock hatte Stellungen mit sehr grosser Machtbefugnis und Verantwortlichkeit im Sanitätsdienst des Dritten Reiches inne. Im Jahre 1933 wurde er zum Oberarzt der Chirurgischen Universitätsklinik in Berlin ernannt. Im Jahre 1936 wurde er Professor der Chirurgie an der Universität Berlin und stellvertretender Direktor der Universitätsklinik. Im Jahre 1941 wurde er zum Direktor der Chirurgischen Klinik ernannt, und 1942 wurde er Dekan der Medizinischen Fakultät der Universität Berlin.
(Rostock, R.3259).

Rostock trat der NSDAP vor dem Kriege bei. Im Jahre 1939 wurde er der Armee als Beratender Chirurg zugeteilt und wurde 1942 Beratender Chirurg der Heeres-sanitätsinspektion. In dieser Eigenschaft war er dem Angeklagten Handloser unterstellt. In der Armee rückte er zum Range eines Generalarztes der Reserve auf. (NO-676, Ankl.Bew.8, R.95; Rostock, R.3259).

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Am 5. September 1943 gab Hitler den Zweiten Erlass uoer das Sanitaets- und Gesundheitswesen heraus, der dem Angeklagten Karl Brandt den Auftrag gab, "zentral die Aufgaben und Interessen des gesamten Sanitaets- und Gesundheitswesens zusammenzufassen und weisungsgemaess zu steuern". Dies bezog sich "auch auf das Gebiet medizinischer Wissenschaft und Forschung". Brandt war berechtigt, "besondere Beauftragte in seinem Aufgabengebiet zu ernennen und zu bevollmaechtigen". (NO-081, Ankl.Bew.6, R. 94). (Unterstreichungen eingefuegt). Auf Grund dieses Erlasses wurde Rostock im Winter 1943 unter Brandt als Generalkommissar fuer das Sanitaets- und Gesundheitswesen zum Leiter des Amtes fuer Wissenschaft und Forschung ernannt. (NO-676, siehe oben; Rostock, R.3259, 3278).

Der Angeklagte Karl Brandt war Mitglied des Praesidialrats des Reichsforschungsrates von 1942 bis Kriegsende. (NO-1730, Ankl.Bew.441, R.2091). Von seiner Ernennung zum Leiter des Amtes fuer Wissenschaft und Forschung an, war Rostock Brandts Stellvertreter beim Reichsforschungsrat. (Rostock, R.3342). Darueber hinaus unterstand der Reichsforschungsrat Brandts aerztlicher Aufsicht in seiner Eigenschaft als Generalkommissar. Brandt uebte diese Aufsicht durch Rostock aus. (NO-1730, Ankl.Bew.441, R.2089; siehe auch die Organisationstafel von Brandts Buero, NO-645, Ankl.Bew.3, R.88). Die Einzelheiten hinsichtlich der Organisation, des Zweckes und der kriminellen Betaetigung des Reichsforschungsrates, wie sie auf Seite 6 bis 8 des Schriftsatzes der Anklagebehoerde gegen Karl Brandt beschrieben sind, werden durch Verweisung zu einem Bestandteil des vorliegenden Schriftsatzes gemacht.

Abgesehen von seiner Stellung als Beratender Hoerchirurg und als Stellvertreter Brandts beim Reichsforschungsrat ruehrte Rostocks groesster Einfluss auf den Sanitaetsdienst

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von seiner Stellung als Leiter des Amtes fuer Wissenschaft und Forschung und von seinem personlichen Einfluss auf Brandt und seinen engen Beziehungen zu ihm her. Um diesen Einfluss richtig einzuschuetzen, muss man sich Brandts ungeheure Machtbefugnisse ueber den Sanitaetsdienst sowohl auf militaerischem als auch auf zivilen Gebiet im Dritten Reich vorgogenwaertigen. (Siehe Schriftsatz der Anklagebohoorde gegen Karl Brandt). Kraft des Fuehrererlasses vom 5. September 1943 (NO-081, siehe oben) wurde Rostock Brandts "besonderer Beauftragter", dem die Aufgabe uebertragen wurde, auf dem Gebiete der Wissenschaft und Forschung "zentral die Aufgaben und Interessen des gesamten Sanitaets- und Gesundheitswesens zusammenzufassen und weisungsgemaess zu steuern". Um die Aufgabe der Zusammenfassung zu erfuellen, war es fuer Rostock unbedingt noetig, eine ins einzelne gehende Kenntnis von dem Stand und den Zukunftsplaenen der aerztlichen Wissenschaft zu haben. Die Verteidigung behauptet, dass Rostock infolge eines Fuehrererlasses, der allen staatlichen Stellen die strengste Schweigepflicht auferlegte, diese Kenntnis nicht erworben konnte. (Rostock, Dokument 3, Bow. 3, R.3262). Dieser Erlass sah aber nur vor, dass "niemand von geheimen Angelegenheiten Kenntnis erhalten soll, die nicht zu seinem eigenen Arbeitsgebiet gehoeren". Offensichtlich gehoerten medizinische Forschung, die Art und Weise ihrer Vornahme und die Resultate unmittelbar zu Rostocks Arbeitsgebiet. Rostock war der Mann, der fuer Brandt auf dem Gebiete der Forschung taetig war, und Brandt musste ueber grundsatzliche Vorgaenge im Sanitaetsdienst der Wehrmacht - der Heer, Marine, Luftwaffe und Waffen-SS einschloss - und im zivilen Gesundheitswesen in Kenntnis gesetzt werden. (NO-080, Ankl.Bow.5, R.93). Es ist schwierig, sich etwas Grundsatzlicheres vorzustellen als eine Politik medizinischer Versuche, die Folterung und Tod

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fuer unfreiwillige Versuchspersonen in sich schloss. Stellen, die solche Forschungsarbeiten vornehmen oder planten, verstieessen also sicherlich nicht gegen den Geheimhaltungsbeehl, wenn sie Rostock Bericht erstatteten. Es war ihnen nicht nur erlaubt, sie hatten geradezu die Pflicht, das zu tun. Rostock traf Vorkehrungen, um von den verschiedenen Stellen, die Auftraege fuer "Sonder"-Forschungsaufgaben - d.h. Forschungen, mit einem bestimmten praktischen Ziel - verteilten, wie z.B. die Luftwaffe, die Heeresinspektion, der Reichsforschungsrat, Information zu erhalten. (Rostock, R.3358-60). Schroeder sagte in seiner eidestattlichen Aussage aus, dass Rostock ueber die von der Luftwaffe vorgenommene aerztliche Forschung unterrichtet war. (NO-449, Ankl.Bow.130, R.474). Rostock sagte aus, dass er von der Zuweisung von ^{seitens der SS} Forschungsauftraegen nur teilweise Kenntnis zu erlangen imstande war (Rostock, R.3296/7), auf jeden Fall aber war er imstande, in dieser Beziehung bestimmte verbrecherische, von der SS unterstuetzte Forschungsarbeiten als "dringlich" zu klassifizieren. (NO-692, Ankl.Bow.457, R.3408, Rostock, R.3409). In dieser Hinsicht ist die Tatsache bezeichnend, dass er nicht die deutschen Universitaeten um Information anging (Rostock, R. 3360), sondern nur Stellen, die, wie aus dem Beweismaterial hervorgeht, kriminelle Versuche an Menschen vornehmen oder foerderten.

Was die Ausrichtung der Forschung anlangte, so war Brandt "ermachtigt, sich verantwortlich einzuschalten", (NO-080, Ankl.Bow.5, R.93) "und den Dienststellen und Organisationen des Staates, der Partei und der Wehrmacht, die sich mit den Aufgaben des Sanitaets- und Gesundheitswesens befassen, Weisungen zu erteilen". (NO-082, Ankl.Bow.7, R. 95). Diese Verrechte standen natuerlich auch Rostock auf dem

Gebiete zu, auf dem er fuer Brandt taetig war. Um die Forschungsarbeit im nationalsozialistischen Deutschland zu leiten, liess Rostock selbst Ersuchen um wissenschaftliche Auftraege ergehen (Rostock, R. 3301), und traf Entscheidungen hinsichtlich der Dringlichkeit gewisser Forschungsauftraege. (NO-692, siehe oben).

Rostocks Aussage hinsichtlich der Taetigkeit seines Amtes fuer Wissenschaft und Forschung laeuft im grossen und ganzen auf die absurde Behauptung hinaus, es sei kein Amt gewesen und habe wenig oder nichts mit Wissenschaft oder Forschung zu tun gehabt. Kurz gesagt, Rostock moechte, dass das Gericht erkenne, er sei ein Mann mit einem pompeösen Titel aber gaenzlich ohne Machtbefugnis und Autoritaet gewesen. Das ist dieselbe Einrede, die praktisch alle Angeklagten vor dem Internationalen Militaergerichtshof ohne Erfolg vorgebracht haben. Das ist dasselbe Klagelied, das von Karl Brandt und Handloser und anderen in diesem Fall gesungen wird. Diese Angeklagten wettenform miteinander, sich selbst herunterzusetzen. Schroeders Erklaerung vor der Verhandlung hinsichtlich der Funktionen des Amtes fuer Wissenschaft und Forschung ist erheblich zuverlässiger als Rostocks eigene Aussage. Schroeder sagte:

"Rostocks Pflicht war es, doppelte Aufgabenerteilungen auf dem Gebiet der medizinischen Forschung zu vermeiden. Daher mussten alle Aufgabenerteilungen durch Rostocks Amt laufen. Wenn ich zum Beispiel Koch oder Haagen eine Forschungsarbeit erteilte, dann ging ein Durchschlag an Rostock, um ihn von der Art der Aufgabe in Kenntnis zu setzen. Rostock konnte dann entscheiden, ob die betreffende Aufgabe bereits von anderer Stelle bearbeitet worden war, oder ob diese Aufgabe etwa lohnende Resultate zeitigen koenne. Durchschlaege von Befehlen fuer Forschungsarbeiten gingen ebenfalls an Handloser." (NO-449, Ankl.Bew.130, R.471).

Schroeder bestaetigte dann im Kreuzverhoer, dass dies seine Auffassung von Rostocks Stellung als Leiter des Amtes fuer Wissenschaft und Forschung gewesen sei. (R.3605).

Die personlichen Beziehungen zwischen Rostock und Karl Brandt waren intim und dauerhaft. Sie trafen sich zum ersten Mal,

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als Rostock von 1927 bis 1933 Oberarzt an der chirurgischen Abteilung des Bochumer Krankenhauses war. Brandt war dort Assistent. (Rostock, R.3277). Rostock wurde auf Brandts Ersuchen hin zum Leiter des Amtes fuer Wissenschaft und Forschung ernannt. (Rostock, R.3278). Waehrend seiner Amtszeit trafen sie sich haeufig, zum mindesten einmal in der Woche und manchmal oeffter. Brandt hatte waehrend der Zeit von 1943 bis zum Ende des Krieges ein Sprechzimmer in Rostocks Klinik in der unmittelbaren Naeher von Rostocks eigenem Sprechzimmer. (Rostock, R.3349). Sie hatten auch beide Sprechzimmer in Biolitz. (Rostock, R.3281). Diese enge Beruehrung und Rostocks offizielle Stellung bei Brandt machen es zur voeelligen Unmoeglichkeit, dass Rostock ueber die Forschungsarbeit und die Versuche, die Brandt bekannt waren und von ihm unterstuetzt wurden, in Unkenntnis gewesen sein koennte.

Dies waren also die verantwortlichen Stellungen des Angeklagten Rostock: Beratender Arzt fuer das Heer und die Heeressanitaetsinspektion, Leiter des Amtes fuer Wissenschaft und Forschung unter dem Generalkommissar fuer das Sanitaets- und Gesundheitswesen und Vertreter des Angeklagten Brandt in seiner Eigenschaft als Mitglied des Praesidialrats des Reichsforschungsrats. Rostock benuetzte die obengenannten Stellungen und seinen persoennlichen Einfluss und seine vertrauten Beziehungen zu dem Angeklagten Karl Brandt in einer Weise, die die Begehung von Kriegsverbrechen und Verbrechen gegen die Menschlichkeit, wie sie in der Anklageschrift beschrieben sind, mit sich brachte..

II. PERSOENLICHE TEILNAHME AN VERBRECHERISCHEN EXPERIMENTEN.

Wie im Fall seines Vorgesetzten Karl Brandt ist nicht zu erwarten, dass ein Mann in Rostocks Stellung persoennlich verbrecherische Versuche vornehmen wuerde.

Das blieb willigen und ehrgeizigen Haenden auf einer niederen Stufe ueberlassen. Aus dem Beweismaterial geht jedoch eindeutig hervor, dass er wie Brandt zur Vornahme von Versuchen an Menschen ohne deren Einwilligung ermutigte. Er, wie Brandt, hatten volle Kenntniss davon, dass von Aerzten der Luftwaffe, des Heeres, der SS und des zivilen Gesundheitswesens systematisch Versuche an Konzentrationslagerinsassen vorgenommen wurden. Er benutzte nie seine Machtbefugnisse und seinen Einfluss, um dieser Verkommenheit ein Ende zu setzen, die die Ermordung, Folterung und die unmenschliche Behandlung von Tausenden hilfloser ^{Maenner,} Frauen und Kinder zur Folge hatte.

Rostock wird in der Anklageschrift die besondere Verantwortlichkeit fuer und die Teilnahme an Malaria-, Gas-, Sulfonamid-, Knochen-, Muskel- und Nerven-Regenerations- und Knochentransplantationsversuchen, an Seewasser-, Epidemischen-Gelbsucht- und Flockfieberversuchen zur Last gelegt. Es ist nicht die Aufgabe der Anklagebehoerde darzutun, dass Rostock mit allen Einzelheiten dieser Versuche vertraut war. Der Beweis genuegt, dass er von der systematischen Verwendung unfreiwilliger menschlicher Versuchspersonen zum Zweck der Vornahme von Versuchen durch Stellen, hinsichtlich derer er ein betraechtliches Mass von Machtbefugnis und Autoritaet ausuebte, wusste oder hatte wissen muessen. (Siehe Yamashita, 66 S. Ct. 340, 347 (1946)). Fuer dies und mehr wurde von der Anklagebehoerde der Beweis erbracht.

A. Sulfonamidversuche (Anklageschrift, Ziffer 6 (E)).

Die Sulfonamidversuche wurden im Konzentrationslager Ravensbrueck von Juni 1942 bis August 1943 vorgenommen. Fuer eine ins einzelne gehende Darlegung des verbrecherischen Charakters dieser Experimente kann auf den Schriftsatz der Anklagebehoerde gegen Gebhardt verwiesen werden.

Ein vollor Bericht ueber die verbrecherischen Sulfonamidversuche

wurde von Gebhardt und Fischer bei der Dritten Tagung der Beratenden Aerzte der Wehrmacht, die vom 24. bis 26. Mai 1943 in der Militaeraerztlichen Akademie in Berlin stattfand, gegeben. Rostock sagte aus, dass er zum ersten Mal ueber die Sulfonamidversuche hoerte, als Gebhardt und Fischer bei dieser Tagung sprachen. (R.3322). Dem widerspricht eindeutig das Zeugnis von Gebhardt, der aussagte, dass ueber den Charakter dieses Vortrags eine laengere Diskussion mit der fuer das Tagungsprogramm verantwortlichen Person stattgefunden haette, und dass er sich erinnere, dass dies Rostock gewesen sei, und dass^{er} auch in den Jahren 1945 und 1946 waehrend der Verhoere vor Eröffnung des Verfahrens ausgesagt habe, dass das Programm fuer die Tagung seinen Vortrag unter dem Titel "Senderexperimente" angefuehrt habe, was andeutete, dass er versuchte, etwas Ungewoehnliches zu bringen, und dass das ganze Gebiet waehrend der Vorbereitungen fuer die Tagung im Mai 1943 mit Rostock eingehend besprochen worden sei. (Gebhardt, R. 4103-06). Gebhardt, Grawitz und Rostock seien fortwaehrend miteinander wegen der Versuche im Schriftverkehr gestanden. Grawitz hatte einen vollstaendigen Bericht ueber diese Experimente, als er mit Rostock wegen Gebhardts Vortrag verhandelte. (Gebhardt, R.4107). Bei allen Vernehmungen vor der Eröffnung des Verfahrens sagte Gebhardt aus, dass es Rostock gewesen sei, der die Leitung der Tagung im Mai 1943 unter sich gehabt und mit dem er die Versuche besprochen habe. Auf dem Zeugenstand sagte er aus, Rostock habe ihm gesagt, er habe sich getauescht und die Tagungsvorbereitungen seien von Schreiber getroffen worden. Angesichts dieser Tatsache gab Gebhardt an, er erinnere sich jetzt nicht klar, ob es Rostock oder Schreiber gewesen sei, mit dem er diese Angelegenheit besprochen habe. (R. 4144). Es ist klar, dass die von Gebhardt vor Eröffnung des Verfahrens gemachten Aussagen in dieser Hinsicht viel zuverlaessiger sind als das angebliche Versagen seines Ge-

daschtnisses auf dem Zeugenstand. Ueberdies weist die Tatsache, dass Rostock Praesident der Tagung vom Mai 1943 war, schliessig darauf hin, dass die Person, mit der Gebhardt verhandelte, Rostock war. (Rostock, R.3269).

Dass Rostock entgegen seiner Behauptung von den Sulfonylamidversuchen vor der Tagung im Mai 1943 wusste, wird auch durch die Aussage von Gebhardt bewiesen, dass er vor der Tagung Rostock und Brandt auf einem Bahnhof getroffen und die Veroeffentlichung der Resultate der Versuche mit ihnen ercoertort habe. (R.4222). Gebhardt bestaetigte das waehrend eines Verhoers am 5. November 1946, als er sagte:

"Es ist doch ein Unsinn diese Anonymitaet der ganzen Sache, ich habe personally ohne jeden Auftrag einmal ganz sicher dem Brandt gesagt - der jetzt zwar sagt, er kann sich nicht erinnern - und einmal Rostock gesagt; Wisst Ihr auch, was wir berichteten? Ich weiss nicht was Euch Grawitz geschrieben hat, ich sage Euch; Himmler hat zu dieser Sulfonylamidfrage das und das befohlen, das laeuft, diese Experimente sind auszufuehren; aber ich habe den wissenschaftlichen Rat nur gegeben, weil es der deutschen Wissenschaft zur Verfuegung kommt."

Als er waehrend desselben Verhoers gefragt wurde, ob es Rostock und Brandt klar gemacht worden sei, dass die Versuche an Haefitlingen gemacht wuerden, antwortete Gebhardt: "selbstverstaendlich". (Gebhardt, R.4222).

Rostock gab zu, dass er auf der Tagung im Mai 1943 den Vorsitz fuehrte und die Vortraege von Gebhardt und Fischer ueber ihre Versuche hoerte. (R.3269-70). Er gab zu, dass eindeutig daraus hervorging, dass die Versuchspersonen kuentlylich infiziert worden waren. (R.3322). Er sagte aus, dass Gebhardt und Fischer keine Angaben ueber die Anzahl der Versuchspersonen machten, sondern blosser Prozentsaetze gaben. (R.3323). Er sagte aus, er habe den Eindruck gehabt, dass es sich um verhaeltnismaessig wenige Versuchspersonen gehandelt habe, vielleicht um ungefaehr 20. (R.3324). Er stellte ausdruecklich in Abrede gewusst zu haben, dass

an bis zu 50 Personen Versuche vorgenommen worden seien.
(R.3328).

Rostocks Aussage hinsichtlich der Einzelheiten, die er ueber Gebhardts Sulfonamidversuche erfuhr, ist voellig falsch. Nach der Erstattung der wissenschaftlichen Berichte auf der Tagung der Beratenden Aerzte, wurden die Vortraege kurz zusammengefasst und die Resultate in medizinischen Anweisungen zum Ausdruck gebracht. (Rostock, R.3325). Es ist offensichtlich, dass Rostock die genauen Einzelheiten, wie z.B. die Anzahl der verwendeten Versuchspersonen, die Art und die Stelle der Infektion, ihre Entwicklung, ihre Gefaehrlichkeit, die Behandlungsmethode, die Anzahl der Todesfaelle usw. wissen musste, um die Resultate der Versuche zu wuerdigen. Aber man ist nicht auf solche rationalen Schlussfolgerungen aus Tatsachen angewiesen, um zu beweisen, dass Rostock eine genaue Kenntniss der Einzelheiten dieser Versuche erlangte und dass er waehrend seiner Zeugnisaussage es unterliess, vollstaendige Angaben darueber zu machen, obwohl er ueber diese Punkte befragt wurde. Gebhardt sagte ganz klar und deutlich aus, dass er ein Gegner jeder Tarnung war und bemueht war, die ganze Angelegenheit dieser Versuche ans Tageslicht zu bringen. In seiner Einleitung zum Vortrag von Fischer erklaerte er, dass die Versuche an Menschen vorgenommen worden waren. (R.4109). Gebhardt kann sich nach seiner Aussage nicht mit Sicherheit erinnern, ob er gesagt habe, dass die Versuchspersonen Konzentrationslagerinsassen waren. Der Angeklagte Fischer erklaerte, dass dies klar gemacht worden sei. (NO-472, Inkl. Bow.243, R.941; vergl. Fischer, R.4365). Gebhardt sagte aus, die klinischen Einzelheiten der Versuche seien bis ins einzelne erlaeutert worden. Auf der Tagung wurde Mitteilung davon gemacht, dass Versuche an 75 Personen vorgenommen worden seien, dass die

Infizierungen kuenstlich hervorgerufen worden seien, dass verschiedene Arzneimittel bei der Behandlung von Infizierungen verwendet worden seien - auch ueber die Resultate wurde Bericht erstattet - dass man von chirurgischer Behandlungsmethode Gebrauch gemacht habe und dass drei Personen gestorben seien. (Gebhardt, R.4109-10). Angesichts des offenbaren Widerspruchs zwischen der Aussage von Gebhardt und von Rostock koennen die Reinwaschungsversuche /^{Rostocks} nicht als glaubhaft angesehen werden.

Rostock sagte aus, seine Auffassung sei gewesen, dass die Experimente ein Ersatz fuer die Todesstrafe gewesen seien, die angeblich ueber die Versuchspersonen verhaengt worden war. Wenn die Versuchspersonen mit dem Leben davon kamen, waere die Todesstrafe nicht vollzogen worden. Bei dieser "Auswechslung" spielte das Vorliegen eines Einverstaendnisses seitens der Versuchspersonen keine Rolle. (Rostock, R.3376).

Nachdem Rostock Kenntniss erlangt hatte, durfte er sich nicht schweigend verhalten; er hatte einwandfrei die Pflicht zu handeln. Rostock unternahm nichts. Obwohl er die Leitung der Tagung hatte, erhob er keinen Widerspruch. Er diente Handloser, dem Hoerrossanitätsinspektor, als Beratender Chirurg. Er war Wissenschaftler von gutem Ruf und ein anerkannter Fuehrer der deutschen Medizin. Er wusste, dass Gasbrandinfektion ausserst gefaehrlich war. (Rostock, R.3316). Er wusste, dass die Versuche unnootig waren und dieselben Resultate durch klinische Studien ueber die Wirkung von Sulfonamid auf Wundinfektionen von Soldaten hatten erzielt werden koennen. (Rostock, R.3338, 3340). Von allen bei der Tagung anwesenden Personen war Rostock am ehesten in der Lage, den Schrecken der Versuche zu erfassen. Er oerorterte die Versuche nicht mit seinem Vorgesetzten Handloser. Er sprach sich weder in der Oeffentlichkeit noch privat gegen die Versuche aus. Diese Tatsachen machen

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Rostock zu einem nachtraglichen Teilnehmer an den verbrecherischen Sulfonamidversuchen, selbst wenn angenommen wird, dass sie zu der Zeit, als Rostock Kenntnis davon erhielt, schon beendet waren. Er "gab seine Zustimmung" zu dieser verbrecherischen Verwendung hilfloser Konzentrationslagerinsassen.

Es stimmt aber nicht, dass die Versuche, als Rostock Kenntnis von ihnen erhielt, beendet waren. Noch im August 1943 wurden sechs polnische Frauen im Bunker in Ravensbrück gewaltsam zu Versuchszwecken operiert. (NO-864, Ankl.Bew. 229, R.923). Diesen Personen hätten Folterung und Verstümmelung erspart bleiben können, wenn eine Person mit Autorität bei der Tagung im Mai 1943 sich dagegen ausgesprochen hätte. Ueberdies hätte eine Untersuchung der Sulfonamidversuche die verbrecherischen Knochen-, Muskeln- und Nervorexperimente ans Licht gebracht (Anklageschrift, Ziffer 6 (F)), die von denselben Personen an demselben Ort vorgenommen wurden.

B. Fleckfieberversuche. (Anklageschrift, Ziffer 6 (J)).

Bei einer Konferenz am 29. Dezember 1941, an der Handloser, Conti, Gildemeister und Brugowsky teilnahmen, wurde beschlossen, die Wirksamkeit von Fleckfieberimpfstoff, der aus in Eidottern gezüchteten Kulturen gewonnen wurde, durch Versuche an lebenden Menschen festzustellen. (NO-265, Ankl. Bew. 287, R.1134; vergl. Handlosers Aussage, NO-732, Ankl. Bew. 251, R.3060). Das Ergebnis dieses Beschlusses war, dass die Versuchstation im Konzentrationslager Buchenwald ins Leben gerufen wurde, und es wurden Versuche zur Erprobung der Wirksamkeit verschiedener Impfstoffe durch künstliche Infizierung von Häftlingen ohne deren Zustimmung von Januar 1942 bis Anfang 1945 vorgenommen. (Kogon, R.1154 ff.). Die Tatsache allein, dass diese Versuche mehr als drei Jahre lang in einem ganz grossen Massstab vor sich gingen, wurde die Feststellung rechtfertigen, dass Rostock von diesen Versuchen wusste oder hätte wissen müssen.

Das Problem der Herstellung von Fleckfieber-Impfstoff und seine Verteilung gehoerte offensichtlich nach seiner Ernennung zum Generalkommissar durch den Fuehrererlass vom 28. Juli 1942 zur Zustaendigkeit Brandts. Es ist unmoeglich, einen klareren Fall von stofflicher Gleichschaltung zu finden. Handloser hatte die primaeere Kontrolle ueber die Impfstoffverteilung. (Handloser, R.3074, 3090; vergl. die Zeugenaussage von Schroeder, R.3642, 3643). Handloser sowohl als Conti mussten Brandt ueber grundsaeztliche Vorgaenge unterrichten. Da die Herstellung des Ei-Impfstoffes von Forschungen ueber seine Wirksamkeit abhing, koennen die beiden nicht voneinander getrennt werden.

Ueber die Versuche in Buchenwald wurde von Dr. Ding-Schuler bei der Tagung der Beratenden Aerzte der Wehrmacht im Mai 1943 Bericht erstattet. (NO-923, Ankl.Bow.436, R. 2063). Rostock gab zu, bei dieser Tagung anwesend gewesen zu sein. (R.3269). Es ist zwar moeglich, dass er den Bericht selbst nicht gehoert hat, da er in der Hygiene-Abteilung vorgetragen wurde, es kann aber kein begruendeter Zweifel daran bestehen, dass er davon gehoert hat. Rose erhob Einwendungen gegen die Natur der Versuche in Buchenwald, und dies war sicherlich eine Angelegenheit, die ueber die Waende des Vortragssaals hinaus Kreise zog. Kogon sagte aus, dass Ding ueber Roses Angriff wuetend war. (Kogon, R.1176). Die Fleckfieberexperimente in Buchenwald sind im einzelnen im Schriftsatz der Anklagebehoerde gegen Mrugowsky beschrieben.

Dr. Eugen Haagen, Hygieniker fuer die Luftflotte "Reich" und Sanitaetsoffizier der Luftwaffe, fuehrte auch Fleckfieberversuche an Haeftlingen des Konzentrationslagers Mauthausen aus. (Schmidt, R.1368, ff.). Diese Versuche wurden fuer die Luftwaffe und fuer den Reichsforschungsrat vorgenommen. (NO-129, Ankl.Bow.308, R.1403; NO-137, Ankl.Bow.

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189, R. 737). Rostock gab zu, dass das Amt fuer Wissenschaft und Forschung anfangs 1944 eine Kopie von Haagens Bericht an den Reichsforschungsrat erhielt. (Rostock, R. 3311, 3367; NO-138, Ankl.Bow.300, R.1390). Dieser Bericht besagte ausdruecklich, dass "hinsichtlich der antiinfektionsoosen Wirkung von getrocknetem Impfstoff weitere Versuche an lebenden Menschen vorgenommen werden". Haagens Fleckfieberforschung wurde bei einer Tagung des Amtes fuer Wissenschaft und Forschung im August 1944, die Rostock einberufen hatte und bei der Mitglieder des Reichsforschungsrats und der Wehrmacht anwesend waren, als "dringlich" bezeichnet. (NO-692, Ankl.Bow.457, R.3408; Rostock, R.3409). Brandt war ein Mitglied des Reichsforschungsrats und Vorgesetzter von Rostock. (oben). Siehe auch die eidesstattliche Aussage von Rudolf Brandt. (NO-370, Ankl.Bow.294, R.1385). Die Fleckfieberversuche von Haagen sind im einzelnen im Schriftsatz der Anklagebehoerde gegen Rose und Schroeder beschrieben.

C. Gasversuche. (Anklageschrift, Ziffer 6 (D)).

Hirts Gasversuche sind im Schriftsatz der Anklagebehoerde gegen Sievers, die Dickenbachs in dem Schriftsatz gegen Karl Brandt beschrieben.

Es kann kein Zweifel daran bestehen, dass Rostock von Hirts und Dickenbachs Gasversuchen Kenntnis hatte und dazu ermutigte. Am 1. Maerz 1944, also lange nachdem Rostock sein Amt bei Brandt angetreten hatte, gab Hitler dem letzteren ausgedehnte Machtbefugnisse auf dem Gebiet der chemischen Kriegsfuehrung. (NO-012, Ankl.Bow.270, R.1038). Dass dieser Auftrag medizinische Forschungen ueber Gaswunden mit einschloss, kann aus Brandts Feststellung, dass seine Zustaeundigkeit sich auf pharmazeutische Erzeugnisse zur Behandlung von Gaswunden erstreckte, entnommen werden. (R.2629). Dies schloss notwendigerweise die Bestimmung der wirksamsten Behandlungsmethode ein.

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Das kann auch aus der Tatsache entnommen werden, dass Abschriften des Erlasses, den Brandt an Himmler sandte (NO-012, oben), an Grawitz und Sievers geschickt wurden, die vorher an diesem Problem gearbeitet hatten. (NO-013a, Ankl.Bew.271, R.1038; NO-013b, Ankl.Bew.272, R.1039).

Im Anschluss an die Herausgabe dieses Erlasses empfing Brandt sowohl mündlich (NO-015, Ankl.Bew.275, R.1039) als auch schriftlich (NO-099, Ankl.Bew. 268, R.1035) Berichte uober Hirts Forschungstätigkeit. Er war sich der Tatsache bewusst, dass von Hirt Experimente an Menschen vorgenommen wurden. (Brandt, R.2626). Versuche mit Gas wurden an ungefähr 220 Häftlingen russischer, polnischer, tschechischer und deutscher Nationalität vorgenommen, von denen ungefähr 50 starben. Sie hatten sich nicht freiwillig gemeldet. (Holl, R.1052, 1057). Hirt schloss seine Gasexperimente in Katzweller während des Sommers 1944 ab. (Holl, R.1058).

Dass Rostock von den Versuchen Hirts wusste, beweist die Tatsache, dass seine Forschung bei einer Tagung des Amtes fuer Wissenschaft und Forschung fuer "dringlich" bezeichnet wurde. (NO-692, Ankl.Bew.457, R.3411). Die Konferenzen, die diese Klassifikation mit sich brachten, wurden in Rostocks Buero in Beelitz abgehalten. Vertreter der Wehrmachtsanitätsdienste und des Reichsforschungsrates wohnten ihnen bei. Brour und wahrscheinlich Blome vertraten den Reichsforschungsrat und Schreiber das Heer. (Rostock, R.3343, 3384). Es ist schwer, Leute namhaft zu machen, die besser uober die Vornahme von kriminellen Versuchen orientiert sind, als diese drei.

Bickenbachs Phosgengasversuche wurden von Rostocks Vorgesetztem, dem Angeklagten Karl Brandt, personally gefordert. Bickenbach war Professor an der Universität

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Strassburg wie auch Hirt und Haagen. (Brandt, R. 2631). Brandt sagte aus, dass er von den Gasexperimenten Bickenbachs im Herbst 1943 anlaesslich eines Besuches in Strassburg zwecks Besichtigung eines Zyklotrons Kenntnis erhielt; dass er ihm half, ein Laboratorium einzurichten; dass er ihm bei der Beschaffung von Versuchstieren unterstuetzte; dass er ihm im Jahre 1944 half, nachdem er sein Laboratorium eingerichtet hatte. (Brandt, R.2619-20). Rostock gab zu, dass er bei Brandt war, als er mit Bickenbach sprach und ihm Hilfe zusagte. Er gab auch zu, in Berlin bei einer Gelegenheit mit Bickenbach gesprochen zu haben. (Rostock, R. 3389).

Rostock leugnete, etwas ueber den Zweck des von Brandt eingerichteten Laboratoriums gewusst zu haben, obwohl er die Diskussion darueber hoerte. (Rostock, R.3390-1). Er geht also einen Schritt weiter als Brandt, der bloss abluegnete, dass er ueber Versuche an lebenden Menschen Bescheid wusste.

Im Februar 1944 war Brandt in Natzweiler, behauptet aber, es seien dort nur Tierexperimente von Bickenbach vorgenommen worden. Das Gegenteil geht aus einem amtlichen Bericht der Regierung der Niederlande ueber Kriegsverbrechen hervor. (NO-1063, Ankl.Bew.328, R.1498, siehe die Aussagen von Hales und Roessingh). Josef Kramer, der fruhere Lagerkommandant in Natzweiler, sagte auch aus, dass Bickenbach an Gefangenen Versuche vornahm. (NO-807, Ankl.Bew.185, R.732).

Bickenbachs Berichte ueber seine Versuche beweisen, dass 40 russische Kriegsgefangene mit Phosgengas vergiftet wurden, wobei nicht weniger als vier der Versuchspersonen ihr Leben einbuessten. (NO-1852, Ankl.Bew.456, R.3406, siehe besonders den 7. Bericht). Diese Versuche wurden nach dem 11. August 1944, dem Datum des 4. Berichtes, vorgenommen. Alle diese Berichte waren an Brandt als Generalkommissar

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fuer das Sanitaets- und Gesundheitswesen, Ziogelstr.9/5, Chirurgische Universitaetsklinik, adressiert. Rostocks und Brandts Bueros in der Universitaetsklinik waren nur vier Zimmer auseinander. (Rostock, R.3349). Rostock will den Gerichtshof glauben machen, dass seine Zustaendigkeit fuer Wissenschaft und Forschung auf Brandts "besondere Aufgaben" beschraenkt war, von denen eine die chemische Kriegsfuehrung war, aber er leugnete zur selben Zeit jedes Kenntnis von Bickonbachs Versuchen ab, obwohl er fuer Brandt arbeitete. (Rostock, R.3354).

Wie im Fall von Hirts Versuchen wurden Bickonbachs Forschungen ueber chemische Kampfstoffe von Rostock bei der Tagung des Amtes fuer Wissenschaft und Forschung am 26. August 1944 als "dringlich" klassifiziert. (NO-692, oben). Rostocks Behauptung, dass er von anderen Stellen Information fuer seine Forschungskartei erhielt, ist, soweit sie sich auf Bickonbach bezieht, offensichtlich unwahr. Seine Arbeit wurde personlich von Brandts Amt unterstuetzt, und Rostock konnte die Information von niemand anderem bekommen als von seinem Chef. Bickonbachs Arbeit wurde von Brandts Amt gefoerdert. Dass Brandts Amtsleiter fuer Wissenschaft und Forschung nichts davon wusste, ist nicht glaubhaft.

D. Epidemische Gelbsucht (Anklageschrift, Ziffer 6 (H)).

Im Juni 1944 wurde von Handloser eine Tagung von Fachleuten einberufen zum Zweck der Zusammenfassung der Gelbsuchtforschung. Diese Konferenz fand in Breslau statt, und Schreiber fuehrte den Vorsitz. (Gutzeit, R.2752). Handloser, Gutzeit und Haagen, ein Beratender Hygieniker der Luftflotte "Reich", waren alle bei dieser Tagung anwesend. (Gutzeit, R.2717). Haagen gab waehrend des Kreuzverhoers zu, dass Versuche an lebenden Menschen besprochen wurden. Dass

verbrecherische Versuche an Konzentrationslagerinsassen gemeint waren, geht klar aus der Tatsache hervor, dass Schreiber im Januar 1945 Krugowsky persönlich ersuchte, Insassen fuer Hepatitisversuche durch Dr. Dresel zur Verfuegung zu stellen. (NO-1303, Ankl.Bew.467, R.5400). Schreiber bestimmte Gruppen von Aerzten, die zusammen an Gelbsuchtsproblemen zu arbeiten hatten. Dohmen, Gutzeit und Haagen wurden einer dieser Gruppen zugewoilt. (Gutzeit, R.2717). Am 12. Juni 1944 ersuchte Haagen selbst Schreiber, ihm Dohmen zur Arbeit mit ihm zuzuweisen. Zu dieser Zeit war Generalarzt Schreiber Leiter der Militaer-aerztlichen Akademie. (NO-299, Ankl.Bew.190, R. 739). Schreiber kam diesem Ersuchen nach. (NO-300, Ankl.Bew.191, R. 740).

Am 24. Juni 1944 schrieb Gutzeit an Haagen, er werde ebenfalls Schreiber ersuchen, Dohmen Haagen zuzuweisen. Er schrieb dann weiter, dass er Vorbereitungen fuer Versuche an lebenden Menschen treffe, und er wuenschte, dass ihm Haagen sein Virus-Material zur Verfuegung stelle. (NO-124, Ankl.Bew.193, R.743). Haagen beantwortete Gutzeits Brief am 27. Juni 1944. Er erklarte, er sei froh, dass ihm Dohmen mit Wirkung vom 15. Juli zugewiesen sei. Er erklarte weiter, dass er mit Kalk, Buechner und Zuchschwert, alles Luftwaffenoffiziere, an Gelbsuchtproblemen arbeite und er mit Kalk Vorbereitungen getroffen habe, mit seinem Material Versuche an Menschen vorzunehmen. (NO-125, Ankl.Bew.194, R. 744). Am selben Datum schrieb Haagen seinem Mitarbeiter Kalk, der zum Stab des Angeklagten Schroeder gehoerte, wie folgt: "In der Anlage ubersende ich Ihnen die Abschrift eines Briefes von Gutzeit und meine Antwort. Wir muessen also jetzt baldmoeglichst daran gehen, die Humanversuche durchzufuehren. Diese muessen allerdings am besten hier in

Strassburg oder in der Nahe stattfinden. Konnten Sie von Ihrer Dienststelle aus die noetigen Schritte unternehmen, dass wir die erforderlichen Versuchspersonen bekommen? Ich weiss nicht, was fuer Maenner Gutzeit zur Verfuegung hat, Soldaten oder anderes Volk." (NO-126, Ankl.Bow.195, R.745).

Die Bemerkung "anderes Volk" ist ein offensichtlicher Hinweis auf Konzentrationslagerinsassen, an denen Haagen schon seit langem Versuche mit virulentem Flockfieber-Virus vorgenommen hatte, waehrend der Hinweis auf "Strassburg oder in der Nahe" auf das Konzentrationslager Natzweiler hindeutet. Herr Kalk und sein Chef, der Angeklagte Schroeder, wussten gut Bescheid darueber, wie man sich Konzentrationslagerinsassen fuer medizinische Versuche beschafft, denn erst wenige Wochen vorher hatte Schroeder selbst Kimmeler um Insassen fuer die Seewasser-Versuche ersucht. (NO-185, Ankl.Bow. 134, R.483).

Die Akten zeigen, dass Dohmen tatsaechlich auf den direkten Befehl Schreibers nach Strassburg ging, um mit Haagen zu arbeiten. (Gutzeit, R.2752). Hier wiederum bezeichnete Rostocks Amt fuer Wissenschaft und Forschung Haagens Epidemische-Gelbsucht-Forschung als "dringlich". (NO-692, Ankl.Bow.457, R.3408).

Dohmens Gelbsuchtversuche im Konzentrationslager Sachsenhausen wurden von dem Angeklagten Karl Brandt in die Wege geleitet und unterstuetzt. (Siehe Schriftsatz der Anklagobehoerde gegen Brandt). Waehrend die Zustimmung zu diesen verbrecherischen Versuchen am 16. Juni 1943 gegeben wurde, als Rostock noch nicht Leiter des Amtes fuer Wissenschaft und Forschung war, wurden die Versuche unzweifelhaft noch im Herbst 1943, als Rostock sein Amt unter Brandt angetreten hatte, noch immer studiert und analysiert.

E. Andere Experimente.

Wenn die Anklagebehörde den Angeklagten Rostock der Verantwortung fuer die Malaria-, Polygal- und Sowerwasser-Versuche beschuldigt, so stuetzt sie sich dabei in erster Linie auf seine Stellung. Als Leiter des Amtes fuer Wissenschaft und Forschung und als enger Mitarbeiter Karl Brandts wusste er von der systematischen Verwendung von Konzentrationslagerhaeftlingen zu Experimenten ohne deren Einwilligung oder hatte er davon wissen muessen. Rostock war keine Insel der Tugend in dem Meer des Verbrechens, das ihn umgab.

Die Malariaversuche wurden in Dachau vom Februar 1942 bis 1945 von Dr. Klaus Schilling vorgenommen, fruher beim Robert-Koch-Institut und einer der beruehmtesten deutschen Wissenschaftler auf dem Gebiet der tropischen Medizin. Ueber tausend Insassen wurden bei diesen Versuchen verwundet und viele starben. (Siehe den Schriftsatz der Anklagebehörde gegen Rose). Es ist klar, dass eine solch lange Reihe wichtiger Versuche Rostock bekannt gewesen sein muss.

Rascher nahm Versuche in Dachau vor, um die Blutgerinnungswirkung eines Mittels namens "Polygal" zu erproben. Zu diesem Zweck wurden eine Reihe von Insassen erschossen. (Siehe den Schriftsatz der Anklagebehörde gegen Blome). Anfangs 1944 wurde von Rascher und Haferkamp eine Abhandlung ueber Polygal in der Muenchner Medizinischen Wochenschrift veroeffentlicht. (NO-438, Ankl.Bew.240, R.956; Blome, R. 4639). Diese Abhandlung zieht eine klare Scheidelinie zwischen Versuchen an lebenden Menschen zur Erprobung der Wirkung von Polygal und zwischen klinischen Pruefungen. Sie erklart: "Ehe wir das Medikament klinisch erprobten und ausprobieren liessen, wurde es in eingehenden Versuchen auf seinen Einfluss auf die Blutgerinnungs- und Blutungszeit am Menschen erforscht." Kurven wurden beigefuegt, um die

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Wirkung von Polygal auf Blutgerinnung und Blutung zu zeigen. Die Abhandlung erörtert dann klinische Beobachtungen während Operationen. Grawitz sowohl wie Rohl erhoben wegen der Veröffentlichung des Artikels Vorstellungen, da sie nicht befragt worden waren und Dachau 3 K und lobende Versuchspersonen erwacht wurden. (NO-614, Ankl.Bow.245, R.964; NO-615, Ankl.Bow. 246, R.966). Rostock gab zu, diesen Artikel gelesen zu haben, der sich, wie ein kritischer Leser bemerkt haben würde, mit Versuchen an Häftlingen in Dachau beschäftigte. Er gab auch zu, den Verfasser des Artikels geschrieben und um Proben von Polygal ersucht zu haben. (Rostock, R.3307). Diese Erkundigung wurde von dem Angeklagten Sievers eingezogen. (3546-PS, Ankl.Bow.123, R.975, Eintragung v. 1. Juni). Gewiss muss sich Rostock selbst über den Charakter und die Resultate dieser Versuche informiert haben.

Die Seewasserversuche wurden von der Luftwaffe in Dachau im Jahre 1944 vorgenommen. (Siehe den Schriftsatz der Anklagebehörde gegen Schroeder). Was Rostocks Wissen um diese Versuche anlangt, genügt es, auf Schroeders Aussage zu verweisen, dass Rostock über die von der Luftwaffe vorgenommene medizinische Forschung Bescheid wusste.

(NO-449, Ankl.Bow. 130, R. 471).

Außer Rostocks Anteil an den oben angeführten Versuchen, war er Leiter des Amtes für Wissenschaft und Forschung unter Brandt, als Brandt persönlich die Vornahme von Versuchen an Konzentrationslagerhäftlingen unterstützte.

Am 30. September 1943 schrieb Grawitz an Himmler, dass Karl Brandt ihn ersucht habe, eine neue Salbe zur Behandlung von Phosphorbrandwunden auszuprobieren. Grawitz ersuchte um Erlaubnis, das Mittel durch künstlich an Insassen von Sachsenhausen (Oranienburg) hervorgerufene Verbrennungen zu

prüfen. Die Erprobung des Mittels an deutschen Zivilisten, die bei Luftangriffen Verbrennungen erlitten hatten, wurde fuer zu langwierig gehalten. Die Zustimmung zu diesen Versuchen wurde am 7. Oktober 1943 gegeben. (NO-1620, Ankl.Bow. 449, R.2646).

Es ist nicht ohne Bedeutung, dass die Versuche, in deren Verlauf Insassen mit Phosphor aus einer Brandbombe Brandwunden zugefuegt wurden, vom 19. November 1943 an in Buchenwald ausgefuehrt wurden. (NO-265, Ankl.Bow.287, R.1127; Kogon, R.1187-90). Es besteht wenig Zweifel daran, dass an Stelle des von Brandt vorgeschlagenen Versuchsorts Sachsenhausen Buchenwald gewaehlt wurde. Die Opfer der Versuche erduldeten die peinigendsten Schmerzen. (Kogon, oben).

Am 4. Februar 1944 schrieb der Angeklagte Rudolf Brandt an ein Mitglied von Himmlers persoenlichem Stab in Berlin (Saumort) und sagte, Karl Brandt habe um zehn Gefangene in Oranienburg gebeten, um ein bestimmtes Arzneimittel auszuprobieren. Karl Brandt hatte diese Versuche mit Grawitz besprochen. Die Gefangenen wurden zur Verfuegung gestellt. (NO-1382, Ankl.Bow. 448, R.2644).

Dass Brandts Buero mit Versuchen an Konzentrationslagerinsassen in Verbindung stand, wird des weiteren durch den vom 31. Maerz 1945 datierten Bericht bewiesen, bezueglich Versuche im Konzentrationslager Neuengamme. (NO-154, Ankl.Bow.446, R.2638). Dort wurden Wasserentseuchungsversuche mit Insassen vorgenommen. Der Bericht besagt, dass die "dritte Versuchsreihe mit einem Stoff der Lostgruppe, dem Stickgas Lost, ausgefuehrt wurde, gemass einem Vorschlag des Oberstarztes Dr. Wirth in der Konferenz mit Reichskommissar Dr. Brandt am 4. Dezember 1944".

Endlich geht aus dem Beweismaterial hervor, dass medizinische Experimente

an Konzentrationslagerinsassen in einem derartig grossen Umfang ausgeführt wurden, dass sie Keitel, dem Chef des Oberkommandos der Wehrmacht, zu Ohren gekommen waren. Ein von Klieve, von der Heeres-sanitätsinspektion, unterzeichnetes Memorandum vom 23. Februar 1944 zeigt, dass Versuche in Verbindung mit dem Bakterienkrieg an lebenden Menschen von dem Angeklagten Blome vorgeschlagen wurden. Das Memorandum stellt fest, dass "die Wehrmacht auf Verlangen des Generalfeldmarschalls Keitel bei den Versuchen nicht verantwortlich beteiligt werden sollte, da auch Versuche mit lebenden Menschen gemacht wurden". (NO-1309, Ankl.Bew.326, R.2615). Es steht dem Angeklagten Rostock kaum an, Kenntnis von solchen Versuchen abzuleugnen, wenn selbst Keitel davon wusste, dessen Interessengebiet weit über medizinische Forschung hinausging. Aus demselben Dokument geht hervor, dass Brandt Blome bei dem Institut in Posen unterstützte, wo die Versuche vorgenommen wurden. Rostock gab zu, u.a. mit Handloser und Blome einer Tagung über bakteriologische Kriegsführung beigewohnt zu haben. (R.3305). Siehe den Schriftsatz der Anklagebehörde gegen Blome wegen einer Beschreibung der Experimente über bakteriologische Kriegsführung.

III. SCHLUSS.

Rostock war einer der verantwortlichen Führer der deutschen Medizin. Er war Dekan der medizinischen Fakultät der Berliner Universität. Er war Beratender Chirurg des Heeres-sanitätsinspektors - Handloser - mit dem Rang eines Generalarztes. Er wurde Leiter des Amtes für Wissenschaft und Forschung unter Karl Brandt und hatte mit ihm die Verantwortung "zentral die Aufgaben und Interessen des gesamten Sanitäts- und Gesundheitswesens zusammenzufassen und weisungsgemäss zu steuern ...". Dies bezog sich "auch auf das Gebiet der Wissenschaft und Forschung".

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Brandts Amt war im Dritten Reich die höchste Autorität fuer wissenschaftliche Fragen. Handloser als Chef des Wehrmachtsanitätswesens und Conti als Chef des Zivilsanitätswesens mussten Brandt Bericht erstatten und waren an Weisungen seines Amtes gebunden. Rostock war Brandts engster Mitarbeiter bei dieser Tätigkeit. Rostock war auch Mitglied des Präsidialrates des Reichsforschungsrates als Brandts Vertreter.

Rostock war ueber die Einzelheiten der verbrecherischen Sulfonamidversuche vollstaendig orientiert. Als Vorsitzender der chirurgischen Sektion und als Handlosers Beratender Chirurg bereitete er das Programm der Tagung der Beratenden Aerzte der Wehrmacht im Mai 1943 vor, bei dem Gebhardt und Fischer ueber ihre verbrecherischen Versuche Bericht erstatteten und fuhrte dabei den Vorsitz. Gebhardt sowohl als Grawitz verhandelten mit Rostock vor der Tagung ueber den zu haltenden Vortrag. Gebhardt informierte Rostock und Brandt ueber die Versuche. Gebhardt und Fischer erlauterten auf der Tagung die Versuche im einzelnen, obwohl dies Rostock bei seiner Befragung vor Gericht ablenkte. Es wurde sogar berichtet, dass drei Menschen in Folge der kuenstlich hervorgerufenen Infizierung getoetet wurden. Nicht durch ein einziges Wort oder durch eine einzige Tat brachte Rostock seine Machtbefugnisse oder seinen Einfluss fuer eine Intervention ⁱⁿ dieser Sache zur Geltung. Sein Verhalten kann folgerichtig nur so aufgefasst werden, dass er von der Politik, Konzentrationslagerinsassen systematisch zu verbrecherischen Versuchen zu benutzen, wusste und sie billigte. Weitere Versuche aehnlicher Natur wurden unter der Leitung Gebhardts in der Zeit nach diesem Bericht vorgenommen.

Auf genau der gleichen Tagung hielt Ding vor der Hygienesektion einen Vortrag ueber moerderische Fleckfieber-

versuche in Buchenwald, wobei Rostocks Kollege Schreiber den Vorsitz fuhrete. Es ist unvorstellbar, dass Gebhardt, Fischer und Ding auf derselben Tagung so offen ueber ihre verbrecherischen Versuche Bericht erstatten haetten koennen, wenn nicht eine feststehende nationalsozialistische Politik vorgelegen haette, die diese Praktiken guthiess. Holzlochner hatte bei der vorhergehenden Tagung der Beratenden Aerzte ueber die von ihm mit Rascher durchgefuehrten Erfruehrungsversuche berichtet. Dieselben Versuche wurden bei einer grossen Tagung in Nuernberg im Oktober 1942 besprochen, die von Schreiber wie auch von anderen Hochrossantatsoffizieren besucht wurde. Rostocks Behauptung, dass er nie von dieser verbrecherischen Politik der Experimente an hilflosen Versuchspersonen ohne deren Zustimmung gehoert habe, dass er nie einen Laut von Dings Vortrag und von den dagegen erhobenen Einwendungen gehoert habe, dass Gebhardt und Fischer nichts sagten, das ihn misstrauisch gemacht haette, einer solchen Behauptung kann kein Glauben geschenkt werden.

Rostock erhielt einen Bericht ueber Haagens Fleckfieberversuche. Er war Mitglied des Reichsforschungsrates, der ihn zusammen mit der Luftwaffe unterstuetzte, und Rostocks Amt fuer Wissenschaft und Forschung klassifizierte seine Forschungen ueber Fleckfieber als dringlich. Haagens Forschungen auf dem Gebiet der epidemischen Gelbsucht, deren Planung Versuche an lebenden Menschen vorsah, wurden auch als dringlich klassifiziert.

Brandts Amt unterstuetzte aktiv Hirts und Bickenbachs Gasversuche, lange nachdem Rostock dort taetig war. Die verbrecherischen Forschungen dieser beiden Maenner wurden vom Amt fuer Wissenschaft und Forschung als dringlich klassifiziert. Rostock war mit Brandt im Jahre 1943 in Strassburg, als Brandt Bickenbach versprach, es ihm zu ermöglichen,

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seine Phosgenversuche an Menschen vorzunehmen. Rostock sah Bickonbach in Berlin bei mindestens einer anderen Gelegenheit. Seine Versuche im Herbst 1944 verursachten den Tod von vier russischen Kriegsgefangenen. Die Berichte ueber diese Versuche wurden an Brandts Amt in der Universitätsklinik geschickt, vier Zimmer entfernt von Rostocks Buero in demselben Gebaude. Wenn der Leiter des Amtes fuer Wissenschaft und Forschung sich nicht mit diesen Angelegenheiten befasste, dann kann man sich nicht vorstellen, wer sonst. Brandt sagte, er wusste nichts ueber aerztliche Versuche im allgemeinen und Bickonbachs Versuche an lebenden Menschen im besonderen.

Brandt unterstuetzte auch andere Versuche an lebenden Menschen, waehrend Rostock bei ihm im Amt war. Diese umfassten Versuche zur Erprobung einer neuen Salbe an kuenstlich herbeigefuehrten Phosphorverbrennungen, und Entsauchungsversuche mit ^{mit} Senfgas vergiftetem Wasser.

Die Anklagebehoerde unterstellt, dass das Beweismaterial ergibt, dass Rostock Haupttaeter, Teilnehmer, Anstifter, Verschueblender war, seine Zustimmung gab und in Verbindung stand mit Plaenen und Unternehmen, die die Durchfuehrung medizinischer Experimente an lebenden Menschen ohne Zustimmung der Betroffenen zum Gegenstand hatten, und ein Mitglied einer in Verbindung damit stehenden Organisation oder Gruppe (Brandts Buero und der Reichsforschungsrat) war, in deren Verlauf Morde, Brutalitaeten, Grausamkeiten, Folterungen, Greuelthaten und andere unmenschliche Handlungen begangen wurden, und dass seine Schuld im Sinne der Punkte I, II und III der Anklageschrift erwiesen ist.

"Ende"

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Ich, Fred Lax, # X 046207, bestätige hiermit, dass ich durchaus vertraut mit der englischen und deutschen Sprache bin, und dass das Vorstehende eine wahrheitsgemäße und richtige Übersetzung dieses Dokumentes darstellt.

Muornberg, 8. Juli 1947

Fred Lax
X 046207

MILITÄERGEGERICHTSHOF NR. I

Fall Nr. 1

ZUSAMMENFASSENDE SCHRIFTSATZ DER
VEREINIGTEN STAATEN VON AMERIKA

-gegen-

KONRAD SCHAEFER

Nuernberg,
16. Juni 1947

James M. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

Fuer:

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for
War Crimes



EINFUEHRUNG

Unter Punkt I der Anklageschrift wird der Angeklagte Schaefer beschuldigt, dass er sich mit anderen Personen im Ver -
folge eines gemeinsamen Vorhabens zu einer Verschwörung
und Uebereinkunft zusammengefunden hat, um medizinische Ex -
perimente an Menschen ohne deren Zustimmung vorzunehmen;
Unter Punkt II und III (Kriegsverbrechen und Verbrechen
gegen die Menschlichkeit), dass er Haupttactor, Teilnehmer,
Anstifter, Verschubleistender gewesen ist, seine Zustimmung
gegeben und mit Plänen und Unternehmen in Verbindung ge -
standen hat, die die Durchfuehrung medizinischer Experi -
mente an lebenden Menschen ohne Zustimmung der Betroffenen
zum Gegenstand hatten.

Dem Angeklagten Schaefer wird die besondere Verant -
wortlichkeit fuer und die Teilnahme an Meerwasser-Experi -
menten zur Last gelegt, wie sie in Ziffer 6 (c) der An -
klageschrift beschrieben sind.

VERANTWORTLICHKEIT FUEER UND PERSOENLICHE TEILNAHME AN VER - BRECHERISCHEN VERSUCHEN.

Der Angeklagte Schaefer war Angestellter der Schering -
Werke und arbeitete in den Laboratorien dieser Firma. Sein
Spezialforschungsbereich war chemische Therapie. (Schaefer
R. 8349). Im Jahre 1941 trat er in die Luftwaffe ein, kehrte
aber, nachdem er seine Grundausbildung erhalten hatte, zu
den Schering-Werken zurueck und arbeitete dort als Assistent
des Leiters der Laboratorien. 1944 wurde er Direktor dieser
Abteilung. (Schaefer R. 8350). Da er sich mit Forschungsar -
beiten beschaeftigte, machte die Luftwaffe von seinen Fachig -
keiten Gebrauch und er wurde 1942 der Sanitaeits-Versuchs -
und Lehrabteilung in Juckerbog zugewiesen, eine der Abteilungen
des Forschungsinstitutes fuer Luftfahrtmedizin in Berlin.
(Schaefer R. 8351). Er behielt indessen seine Stellung bei
den Schering-Werken bei. (Schaefer Bew. 14, R. 8355).

In dieser Eigenschaft als Mitglied der Sanitäts- Versuchs- und Lehrabteilung kam er mit verbrecherischen Versuchen an Konzentrationslager-Insassen in Berührung.

Am 26. und 27. Oktober 1942 besuchte Schaefer die Kältetagung in Nuernberg wo Holzlochner und Rascher ihren Vortrag ueber die Kälteversuche im Konzentrationslager Dachau hielten. (Schaefer R. 8361, siehe Schriftsatz der Anklagebehörde gegen den Angeklagten Sievers.) Er hielt dort auch einen Vortrag ueber Durst und Massnahmen zu seiner Bekämpfung in Seenot. (Schaefer R. 8359, 8362). Schaefer bestritt, dass er Holzlochner und Rascher sprechen hoerte, aber dies ist sehr unwahrscheinlich, da Schaefers Vortrag am Tag nach Holzlochners und Raschers Berichten gehalten wurde. (NO-401, Ankl. Bew. 93, R. 309, siehe Anthonys Ansprache). Uebers dies war Holzlochner auch der Sanitätsversuchs- und Lehrabteilung zugeteilt. (NO-401 oben). Der Vortrag von Holzlochner und Rascher war eine Art Sensation, da darin klar zum Ausdruck kam, dass Konzentrationslager-Insassen fuer die bei dem Vortrag besprochenen Experimente verwendet worden waren, und dass einige der Versuchspersonen starben. (Lutz R. 272). Es ist sicher, dass Schaefer, der bei der Tagung anwesend war, nicht als ein uninteressierter Zuhörer, sondern als einer der Wissenschaftler, der ueber ein verwandtes Thema sprach, von diesem sensationellen Report wusste.

Im Fruchsommer 1944 nahm Schaefer an der Planung der verbrecherischen Meerwasserversuche teil. Diese Versuche wurden an Haeftlingen des Konzentrationslagers Dachau vorgenommen und waren von ihrem ersten Anfang im Mai 1944 an ein verbrecherisches Unternehmen. Nach zwei-einhalb

Jahren moerderischer medizinischer Versuche an Konzentrationslager-Insassen durch Aerzte der Luftwaffe, einschliesslich Hochen- Kaelte- Gas- und Fleckfieberversuche in Buchenwald und Maltzweiler, ordnete der Angeklagte Schroeder im sicheren Bewusstsein, dass einige der Versuchspersonen wahrscheinlich starben wurden, personlich die Vernahme der Moerwasserversuche an. Unter anderem nahmen Becker-Freysong, Beiglboeck und Schaefer, die seine Untergebenen waren, an der Planung und Durchfuehrung derselben teil.

Am 19. Mai 1944 fand eine Konferenz im ^{Reichs-}Luftfahrtministerium (RLM) statt, an der unter anderen Christensen, Schickler, Becker-Freysong und Schaefer teilnahmen. Becker-Freysong und Schaefer vertraten den Chef des Luftwaffen-sanitaetsdienstes. Diese Konferenz befasste sich mit dem Problem der Trinkbarmachung von Moerwasser. Zwei Methoden, Moerwasser trinkbar zu machen, standen zu dieser Zeit dem Sanitaetsdienst der Luftwaffe zur Verfuegung. Die eine, die von Schaefer entwickelt worden war und den Namen Wofatit trug, war chemisch geprueft worden und produzierte anscheinend trinkbares Moerwasser. Sie hatte jedoch den Nachteil, dass sie betraechtliche Mengen von Silber benoetigte, das nur in beschraenkten Mengen zur Verfuegung stand. Die zweite Methode Berkatit genannt, war eine Substanz, die den Geschmack des Moerwassers veraenderte, aber das Salz nicht ausschloess. Sie hatte den Vorteil einfacherer Herstellung und Verwendung.

Auf der Tagung am 19. Mai berichtete der Angeklagte Becker-Freysong ueber gewisse chemische Experimente, die von Sirany zwecks Erprobung von Berkatit durchgefuehrt worden waren. Er kam zum Schluss, dass die Bedingungen, unter denen die Experimente vorgenommen worden waren, nicht genuegend realistisch der Seenet entsprachen. Er berichtete, der Chef des Luftwaffen-Sanitaetsdienstes:

"Sei davon ueberzeugt, dass bei dem Berka-Vor-
fahren nach dem Genuss des Borkatits nach spaete-
stens 6 Tagen gesundheitliche Schoeden zu er-
warten sind, welche eine dauernde gesundheitliche
Schadigung nach sich ziehen und nach Ansicht von
Unterarzt Dr. Schaefer nach spaetestens 12 Tagen
mit toetlichem Ausgang enden wird." (NO-177, Ankl.
Bew. 133, R.479).

Das Resultat dieser Konferenz war ein Beschluss, neue
Experimente vorzunehmen. Diese sollten eine Versuchsreihe
fuer die Dauer von hoechstens 6 Tagen umfassen, waehrend der
einer Gruppe von Versuchspersonen mit Borkatit behandeltes
Moorwasser gegeben werden sollte, einer anderen Gruppe ge-
woehnliches Trinkwasser, einer weiteren Gruppe ueberhaupt
kein Trinkwasser und der letzten Gruppe Wasser, das in dem
damals gebrauchlichen Seenotproviant enthalten war. Man
beschloss die Vernahme einer zweiten Versuchsreihe und der
Bericht fuhrte aus:

"Leute mit Moorwasser und Borkatit ernaeht, als
Proviant ebenfalls den vorgesehenen Seenotproviant.

Versuchsdauer: 12 Tage.

Da nach Ansicht des Chefs des Sanitaetswesens bei
dieser Versuchsreihe mit dauernden gesundheitlichen
Schadigungen bzw. dem Tode der Versuchspersonen
zu rechnen ist, sollen als Versuchspersonen Leute
genommen werden, welche seitens des Reichsfuehrers
SS zur Verfuegung gestellt werden." (NO-177, oben).

Also im vollen Bewusstsein, dass die Verwendung von
Borkatit fuer einen Zeitraum von 6 Tagen eine dauernde
Schadigung der Versuchspersonen mit sich bringen und dass
spaetestens am 12. Tag der Tod eintreten wuerde, wurden
Plaene gemacht, Experimente durchzufuehren, die 12 Tage
lang dauern sollten. Es ist zu beachten, dass der Kon-
ferenzbericht nicht angibt, dass die Hoechstdauer 12 Tage
sei, wie bei den ersten Versuchsreihen. Da man wusste,
dass man unter solchen Umstaenden nicht mit Freiwilligen
rechnen konnte,

entschied sich die Konferenz dafuer, Konzentrationslager-Insassen zu verwenden, die ihr von der SS zur Verfuegung gestellt werden wuerden. Im Bericht ueber eine zweite Tagung am 20.Mai 1944 heisst es, "als Versuchsort wurde Dachau bestimmt." (NO-177, oben). Abschriften der Berichte ueber die Tagung gingen unter anderen an die Sanitaets-Versuchs- und Lehrabteilung der Luftwaffe in Jüterbog, der die Angeklagten Schaefer und Holzschner, die die Kaelteexperimente mit Pascher durchfuehrten, zugeteilt waren; an die DVL Berlin-Adlershof, der die Angeklagten Ruff und Remberg zugeteilt waren; an die Luftwaffen-Sanitaetsinspektion (L.In.1); und an den Reichsfuehrer SS. Der Bericht war von Christensen vom technischen Buero des RLM unterzeichnet.

Das Protokoll der Konferenz (NO-177, oben) zeigt einwandfrei, dass Schaefer sich darueber voellig klar war, dass die geplanten Meerwasser-Versuche, wenn sie 12 Tage lang andauerten, Todesfaelle zur Folge haben wuerden. Trotzdem entschied man sich dafuer, Experimente fuer einen solchen Zeitraum vorzunehmen. Der Versuchsplan wurde genehmert, um Experimente mit, nach der Schaefer'schen Methode behandeltem Meerwasser einzuschliessen.

Die auf der Tagung am 19.und 20.Mai 1944 geplanten und beschlossenen Experimente, wurden von dem Angeklagten Beiglboeck mit Hilfe der Angeklagten Schroeder, Sievers, Becker-Freysong und anderen im Konzentrationslager Dachau im Monat August und der ersten Haelfte des September 1944 vorgenommen. 44 Versuchspersonen, alles Zigeuner, wurden verwendet.

Die vom Angeklagten Beiglboeck ueber jede der Versuchspersonen gefuehrten Tabellen, die die Verteidigung schliesslich als Beweismaterial vorzulegen gezwungen wurde, gaben Einzelheiten

ueber die Experimente. (Beiglboeck Ber. 34, R. 9381). Den Versuchspersonen wurde entweder nach der Schaefer'schen Methode prozessiertes Meerwasser (Schaefer-Wasser-Wefatit) oder Bor-
katit oder einfaches Meerwasser gegeben, eine Menge von 500
oder 1000 ccm taeglich. Die Dauer der Experimente schwankte
zwischen 5 und 12 Tagen und die Versuchspersonen mussten bis
zu 8½ Tagen hungern. (Wegen Einzelheiten siehe den Schriftsatz
der Anklagebehörde gegen Beiglboeck). Die Versuchspersonen
waren keine Freiwilligen. (Verlieck, R. 9388, 9392; Laubinger,
R. 10200-1; Hoellenreiner, R. 10509). Die Mehrheit der Versuchs-
personen waren Staatsangehoerige Alliiierter Nationen wie Tschechen,
Polen und Russen. (Laubinger, R. 10308; Hoellenreiner, R. 10513;
verlieck, R. 9388).

Aus der Zeugenaussage der Zeugen fuer die Anklagebehörde
geht hervor, dass die Meerwasserversuche Mord und Qualen mit
sich brachten. Die Versuchspersonen erkrankten schwer und man
hatte den Eindruck, dass sie nicht viel laenger leben wuerden.
(Verlieck, R. 9390). Eine Anzahl Personen hatten Anfaelle von
Delirium. Zwei von ihnen wurden in das Lagerlazarett ueber-
fuehrt und ihre Mitgefangenen sahen sie nicht wieder. (Laubinger,
R. 10209). Der Angeklagte Beiglboeck bekundete kein Zeichen
von Mitleid oder Besorgnis, wenn die Versuchspersonen vor
Durst oder Hunger irre redeten. (Hoellenreiner, R. 10510). Ihre
koerperliche Verfassung verschlechterte sich als Folge dieser
Experimente beträchtlich. Eine der Personen hatte einen Wahn-
sinnsanfall. (Tschefonig, R. 9336). Am Ende der Experimente
wurden drei der Personen zur Station fuer Innere Krankheiten
verbracht. Einer davon starb infolge der Experimente.
(Tschefonig, R. 9338-9).

Die Bekundungen dieser Zeugen werden durch die

Feststellungen der Sachverständigen der Anklagebehörde
bekräftigt. Dr. Ivy erklärte, dass, wenn man 1000 ccm Ber-
katit Meerwasser täglich zu sich nehmen würde dies in
weniger als 12 Tagen den Tod herbeiführen würde. Wenn 500ccm
täglich unter idealen Verhältnissen eingenommen würden,
würde der Tod zwischen dem 8. und 14. Tag eintreten. (R.9045).
In diesem Zusammenhang muss man bedenken, dass die Experimente
während der heißen Sommermonate vorgenommen wurden, eine Tat-
sache, die sicher die durch die Einnahme von Meerwasser und
Berkatit verursachte Entwässerung noch verstärkte.

Auf Grund seines Studiums der klinischen Aufzeichnungen
(Beiglboeck ek Bew. 134, oben) gab Dr. Ivy als Zeuge an, dass eine
Reihe der Versuchspersonen während der Versuche krank waren.
Er gab ausdrücklich an, die Möglichkeit bestehe, dass drei
der am ernsthaftest erkrankten Personen Dauerschäden davon-
getragen oder an^{den}/Folgen dieser Experimente starben. (R.9058-9).
(Siehe den Schriftsatz gegen Beiglboeck wegen Einzelheiten).
Die Zeugenaussage von Dr. Ivy beweist ferner, dass es gänz-
lich unnötig war, die Versuche 12 Tage lang durchzuführen, wi-
es auf der Tagung am 19. und 20. Mai 1944 geplant wurde.
(NO-177, oben). Drei bis vier Tage dauernde Versuche hätten
genuegt um zu zeigen, dass Berkatit genau so entwässernd
wirkte, wie Meerwasser. (R.9046). Dr. Ivy sagte aus, dass
laenger andauernde Experimente nur einen Sinn hatten, wenn
festgestellt werden sollte, wie lange Menschen mit 500 oder
1000 ccm Meerwasser täglich am Leben bleiben könnten. Es ist
klar, dass der Experimentierplan mit Todesfällen rechnete.
(R.9046-7).

Wegen einer eingehenden Beschreibung der Durchführung
und des verbrecherischen Charakters der Meerwasser-Ex-
perimente wird auf die Schriftsätze der Anklagebehörde
gegen die Angeklagten Schroeder und Beiglboeck verwiesen.

SCHLUSS

Schaefer war Sachverstaendiger und Spezialist fuer Hunger- und Durstprobleme und hatte auf diesem Gebiet selbst Versuche durchgefuehrt. (Schaefer Bow. 20-21, R.8370; Schaefer, R.8371). Er wusste, dass Berkka und Sirany, deren Methoden er ausprobieren sollte, Scharlatane waren. (Schaefer, R.8382; siehe auch Schaefer Bow. 29-30, R. 8383-4). Er war ueberzeugt, dass Berkati "gaenzlich unwirksam war und dass dies so offenkundig war, dass es keinen Sinn hatte, damit zu experimentieren". Er gab an, dass er der entschiedenste Gegner der Berkka-Methode war und deshalb von dem Leiter der Tagung am 20. Mai 1944 daran gehindert wurde, seine ablehnende Meinung zum Ausdruck zu bringen. Es sei ihm sogar gedroht worden, dass sein Verhalten als Sabotage betrachtet wurde. (Schaefer, R. 8388). Er gab an, dass er nicht das geringste Interesse daran gehabt haette, dass Versuche mit Wofatit an Menschen vorgenommen wurden, da er nichts mit diesem Praeparat zu tun hatte. Es waere laecherlicher Ehrgeiz seinerseits gewesen, wenn er haette beweisen wollen, wie gut Wofatit und wie schlecht Berkati gewesen sei. (R. Schaefer 8389).

Es ist jedoch bewiesen worden, dass diese Behauptungen seitens Schaefer nicht schluessig sind und keine Verteidigung darstellen. Wenn Schaefers Vorbringen wahr waere, wurde er sicherlich nicht die zweite Konferenz der Tagung besucht haben, die einen Tag nachdem er angeblich seine nachdruecklichen Einwendungen vorgebracht hatte, stattfand. (Schaefer, R. 8539). Er wohnte sogar einer dritten Versammlung am 25. Mai bei. Schaefer versuchte diesen Widerspruch durch seinen niederen Dienstgrad in der Luftwaffe zu erklaren, aber es ist klar, dass er die zwei Tagungen am 19. und 20. Mai als sachverstaendiger Vertreter der Luftwaffe besuchte und sein Rang nicht entscheidend gewesen sein koennte. Wenn es wirklich wahr waere, dass er so starken Widerspruch erheben haette, wie er es jetzt wahrhaben will, so wurden seine Vorgesetzten ihn nie ersucht haben, an den Tagungen am 20. und 25. Mai teilzunehmen.

Schaefer gab indessen zu, dass er beiden Tagungen beigewohnt habe. (R. 8392, 8541). Ueberdies konnte er keine Erklaerung dafuer geben, dass die Experimente mit Schaefer-Wasser in den Experimentierplan einbezogen wurden. (Schaefer, R. 8541). Dass diese Entscheidung nicht ohne den Rat und die Beteiligung des Sachverstaendigen, der diese Methode entwickelt hatte, haette getroffen werden koennen, liegt auf der Hand. Aus den Aufzeichnungen der Konferenz am 19. Mai 1944 (NO-177, oben) geht hervor, dass schon an diesem Tag die Entscheidung getroffen worden war, die Experimente mit Meerwasser und Berkatit fuer die Dauer von 12 Tagen vorzunehmen. Auf der selben Tagung hatte Schaefer seiner Meinung dahin Ausdruck gegeben, dass, wenn Meerwasser und Berkatit verwendet werde, nach 12 Tagen der Tod eintreten wurde. (Schaefer, R. 8534). Es ist also bewiesen, dass Schaefer spaetestens am 19. Mai sich vollkommen dessen bewusst war, dass die Vernahme der Meerwasser-Experimente notwendigerweise ein Verbrechen darstellen wurde. Darueber hinaus geht aus seiner Aussage hervor, dass er an dieser Tagung und den darauffolgenden keineswegs als ein nicht den Offiziersrang bekleidender Arzt teilnahm, sondern als Luftwaffen-Sachverstaendiger. Dies wird durch die Tatsache bewiesen, dass er seine Taetigkeit bei den Schering-Werken selbst nach seiner Einziehung zur Luftwaffe fortsetzen konnte; durch seine Zuteilung zur Sanitaets-Versuchs- und Lehrabteilung und dadurch, dass er in der Lage war, mit dem Angeklagten Becker-Freysong telephonisch wegen der Experimente in Verbindung zu treten; der Letztere war zu dieser Zeit Forschungsberater des Angeklagten Schroeder. (Schaefer, R. 8389).

Schaefer hat sich nie von den Experimenten distanziert. Er nahm an der Konferenz im Oktober 1944 teil, wo Reiglbrock ueber die Resultate Bericht erstattete. (NO-474, Ankl. Bew. 131, R. 474). Schaefer gab die Tatsache seiner Anwesenheit bei dieser Konferenz zu. (R. 8560). Die Tatsache, dass Schaefer aufgefordert wurde

dieser Konferenz beizuwohnen, ist ein schlüssiger Beweis dafür, dass er bei diesen Experimenten mitarbeitete und vollständig über ihre Planung und Vornahme informiert war. Seine Gegenwart wäre unnötig und sogar unerwünscht gewesen, wenn er als Gegner der Experimente angesehen worden wäre, wie er jetzt dem Gerichtshof glauben machen will. Aus Schaefer's eidesstattlicher Aussage vor der Verhandlung geht im Zusammenhang mit dieser Tagung hervor, dass er wusste, dass die Experimente im Konzentrationslager Dachau "während eines Zeitraumes von 7 zu 12 Tagen" vorgenommen worden waren. Dr. Reiglboeck berichtete auch, dass die Experimente Leberschwellungen und nervöse Symptome zur Folge gehabt hätten. Delirium und geistige Störungen stellten sich auch ein. (NO-474, oben). Auf die Weise, wie sie im Verlaufe der Gerichtsverhandlungen gebräuchlich wurde, versuchte Schaefer gewisse Stellen seiner eidesstattlichen Aussage, die ihn oder seine Mitangeklagten belasteten, wegzuerklären. Er musste indessen zugaben, dass er diese eidesstattliche Erklärung ohne Notigung beschwor und sie unterzeichnete und selbst eine Anzahl von Berichtigungen im Text vor der Unterzeichnung vernahm. (Schaefer, R. 8560).

Die Tatsache, dass das mit der Schaefer'schen Methode prozessierte Meerwasser harmlos ist und die Gesundheit der Versuchspersonen nicht schädigte, stellt keine Verteidigung für Schaefer dar, da er wusste, dass der Experimentierplan im Allgemeinen ein Verbrechen darstellte und die Durchführung der Experimente Tod und Qualen für die Versuchspersonen zur Folge hatte. Dass er kein Vertrauen zu Berkatit hatte, ist ebenfalls ganz nebensächlich. Er unterstützte vorsätzlich verbrecherische Experimente um zu beweisen, dass seine Methode die bessere von den beiden war.

Die Anklagebehörde unterstellt, dass das Beweismaterial ergibt, dass Konrad Schaefer Haupttäter, Teilnehmer, Anstifter, Verschuldigter war, seine Zustimmung gab und in Verbindung stand mit Plänen und Unternehmen, die die Durchführung modi-

(Seite 10 des Originals - Forts.)

zinischer Versuche ohne Zustimmung der Betroffenen zum Gegenstand hatten, und Mitglied einer Organisation oder Gruppe war, die in Verbindung stand mit diesen Versuchen, in deren Verlauf Mordtaten,

(Seite 11 des Originals)

Brutaltaten, Grausamkeiten, Folterungen, Greueltaten und andere unmenschliche Handlungen begangen wurden und dass seine Schuld im Sinne der Punkte I, II und III der Anklageschrift erwiesen ist .

"ENDE"

Ich, Fred Lax # X 046207, bestaetige hiermit, dass ich durchaus vertraut mit der englischen und deutschen Sprache bin, und dass das "Verstehende eine wahrheitsgemaeasse und richtige Uebersetzung des Dokumentes "Konrad Schaefer" darstellt.

Muernberg, 25. Juli 1947

FRED LAX
X 046207

M I L I T Ä R G E R I C H T S H O F N O. I

FALL No. 1

ZUSAMMENFASSENDER SCHRIFTSATZ DER
VEREINIGTEN STAATEN VON AMERIKA

- gegen -

SIEGFRIED RUFF
HANS WOLFGANG RÖHM
GEORG AUGUST WELTZ

James H. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Bethor Jane Johnson

For:

Nürnberg,
16. Juni 1947

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War Crimes



EINFUEHRUNG

Unter Punkt I der Anklageschrift werden die Angeklagten in wesentlichen beschuldigt, dass sie sich mit anderen Personen im Verfolge eines gemeinsamen Vorhabens zu einer Verschwörung und Uebereinkunft zusammengefunden haben, um medizinische Experimente an lebenden Menschen ohne deren Zustimmung vorzunehmen; unter Punkt II und III (Kriegsverbrechen und Verbrechen gegen die Menschlichkeit), dass sie Haupttaeter, Teilnehmer, Anstifter, Vorschubleistende gewesen sind, ihre Zustimmung gegeben und mit Plaenen und Unternehmen in Verbindung gestanden haben, die die Durchfuehrung medizinischer Experimente an lebenden Menschen ohne Zustimmung der Betroffenen zum Gegenstand hatten.

Dem Angeklagten Weltz wird in besondern seine besondere Verantwortung und Teilnahme an Hoehen-Versuchen, wie in Ziffer 6 (A) der Anklageschrift ausgefuehrt, und an Kaelte-Versuchen, wie in Ziffer 6 (B) ausgefuehrt, zur Last gelegt.

Den Angeklagten Ruff und Romberg wird vor allem die besondere Verantwortung und Teilnahme an den Hoehen-Versuchen, wie in Ziffer 6 (A) der Anklageschrift ausgefuehrt, zur Last gelegt.

I. STELLUNG UND VERANTWORTUNG.

GEORG AUGUST WELTZ

Der Angeklagte Weltz war seit langen Jahren Facharzt fuer Roentgenologie. (Weltz, R. 7038). Im Jahre 1935 erhielt er einen Ruf, an der Universitaet Muenchen auf dem Gebiet der Luftfahrt-Medizin Vorlesungen zu halten; gleichzeitig richtete er im physiologischen Institut der Muenchener Universitaet eine kleine Versuchsabteilung ein. (Weltz, R. 7040). Der Angeklagte hielt an der Muenchener Universitaet Vorlesungen, waehrend er gleichzeitig sich mit Forschungsarbeiten im Institut befasste. (NO-677, Ankl.Bew. 17, R. 113)

Im Jahre 1937 trat der Angeklagte Weltz der NSDAP bei. (Weltz, R. 7158). Ausserdem war er Mitglied der NS Aerzte Vereinigung und der NS Dozenten Vereinigung (Weltz, R. 7158).

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Im August 1939 trat er als Stabsarzt in die Luftwaffe ein und bekleidete am Ende des Krieges den Rang eines Oberfeldarztes. (Woltz, R. 7159). Nachdem er im August 1939 in die Luftwaffe eingetreten war, leitete der Angeklagte die Flugzeugfuhrer-Pruefstelle in Neubiberg und leitete die bodenstaendige Pruefstelle IV fuer Hoehenforschung in Muenchen. (R. 7042).

Im Sommer 1941 wurde die Notwendigkeit weiterer Hoehenforschungen augenscheinlich, da der Luftkrieg immer groessere Bedeutung gewann. Woltz's Abteilung im Physiologischen Institut der Universitaet Muenchen wurde daher von der Luftwaffe uebernommen und in "Institut fuer Luftfahrtmedizin in Muenchen" umgetauft. (NO-677, Ankl.Bew. 17, R. 113). Woltz wurde von Generaloberstabsarzt Erich Hippke, Chef der Luftwaffen Sanitaetsinspektion, mit der Leitung dieses Institutes beauftragt und erhielt Vollmachten, das Institut ganz wesentlich zu vergruessern. (Woltz, R. 7044, R. 7152). Das Forschungsgebiet des Institutes umfasste die koerperliche Reaktion des Flugzeugfuhrers in grossen Hoehen, Reziprozitaet der Atmung, Blutzirkulation, Abkuehlung, Kollaps und Wiederbelebung des Flugzeugfuhrers. (R. 114, Woltz R. 7045).

In seiner Eigenschaft als Leiter des Institutes fuer Luftfahrtmedizin in Muenchen unterstand Woltz in disziplinarischer Hinsicht dem Luftgau 7 in Muenchen, in wissenschaftlichen Dingen dagegen unterstand er direkt dem Chef der Abteilung fuer Luftfahrtmedizin, Anthony, im Amt der Luftwaffen Sanitaetsinspektion unter Hippke. (Woltz, R. 7159). Es muss erwachnt werden, dass der Angeklagte Becker-Freysong von 1941 bis Anfang 1944 Hilfsberater unter Anthony in der luftfahrtmedizinischen Abteilung gewesen ist, und dass er in Anschluss daran, Leiter der Abteilung als Anthony's Nachfolger wurde. (NO-669, Ankl.Bew. 16, R. 110).

SIEGFRIED RUFF

Der Angeklagte Ruff spezialisierte sich nach dem Abschluss seiner Studien auf den Universitaeten Berlin und Bonn im Jahre 1932 auf das Gebiet der Luftfahrtmedizin. (Ruff, R. 6490). In den Anfangstadien seiner Arbeiten beschaeftigte er sich hauptsaechlich damit, zu erforschen, ob man die klimatischen Verhaeltnisse, wie sie in grossen Hoehen angetroffen werden, in irgend einer Form fuer therapeutische Zwecke nutzbar machen koennte. Im Januar 1934 erhielt der Angeklagte einen Ruf an die deutsche Versuchsanstalt fuer Luftfahrt, um dort eine Abteilung fuer Luftfahrtmedizin einzurichten. (R. 6491, R. 114). Ruff trat der NSDAP im Jahre 1938 bei und war Reserveleutnant in der Luftwaffe. (Ruff, R. 6493).

Die deutsche Versuchsanstalt fuer Luftfahrt, im folgenden "DVL" genannt, war eine eingetragene Gesellschaft, von privaten und Regierungskreisen gegrueudet mit dem Zweck der Luftfahrtforschung auf wissenschaftlicher Grundlage. (Ruff, R. 6491). Die Gesellschaft bestand aus verschiedenen Instituten, wo die Forschungen durchgefuehrt wurden. Die DVL erhielt ihre Weisungen von der Luftwaffe, und Ruff's Anstalt im besonderen unterstand der Sanitaetsinspektion der Luftwaffe. Ruff erhielt seine Anweisungen in technischen und medizinischen Angelegenheiten von der Sanitaetsinspektion, und hatte dorthin seine Meldungen zu erstatten. (Ruff 6493). Der Angeklagte Ruff verblieb in seiner Stellung als Leiter der Anstalt fuer Luftfahrtmedizin in der DVL bis Kriegsende. (HO-638, Ankl.Bew. 18, R. 114).

Die Arbeiten des Angelegten Ruff in diesem Institut lagen auf drei getrennten Gebieten: 1) Luftunfall-Wissenschaft, 2) Fluggeschwindigkeiten, 3) Hoehenforschung. Ruff's erster Assistent in seinem Institut war der Angeklagte Romberg.

HANS WOLFGANG ROMBERG

Der Angeklagte Romberg beschäftigte sich seit 1937 mit dem Gebiet der Luftfahrtmedizin. Im Jahre 1937 diente er zwei Monate bei der Luftwaffe, und im Januar 1938 kam er in den Stab der DVL in Berlin und wurde Assistent des Angeklagten Ruff im Institut fuer Luftfahrtmedizin. Romberg trat der NSDAP im Jahre 1933 bei. (R. 6765, NO-588, Ankl.Bew. 19, R. 115).

Der Angeklagte Romberg wurde als wissenschaftlicher Mitarbeiter des Angeklagten Ruff eingestellt, und seine Spezialaufgabe lag in der theoretischen und praktischen Auswertung von Luftunfällen. Ausserdem bearbeitete Ruff luftmedizinische Forschungsfragen. (Romberg, R. 6765). Nachdem die DVL im Jahre 1939 eine Unterdruck-Kammer bekommen hatte, richtete der Angeklagte seine Bemühungen auf den Gebiet der Höhenforschung auf die Erhöhung der Höhen-Widerstandsfähigkeit durch pharmazeutische Mittel, die Wirksamkeit von Pervitin, Untersuchungen ueber Fallschirmabsprünge aus grossen Höhen, plötzliches Drucknachlassen und viele ähnliche Dinge. (Romberg, R. 6767).

Die Angeklagten Woltz, Ruff und Romberg nutzten ihre obengenannten Stellungen und ihre Erfahrungen auf dem Gebiet der Luftfahrtmedizin in einer Weise, welche die Begehung von Kriegsverbrechen und Verbrechen gegen die Menschlichkeit, wie sie ihnen in der Anklageschrift zur Last gelegt worden, mit sich brachte.

II. PERSÖNLICHE BETEILIGUNG DER ANGEKLAGTEN AN VERBRECHERISCHEN VERSUCHEN.

Aus der Beweiserhebung ging hervor, dass die Angeklagten Woltz, Ruff und Romberg sich an der Planung und Ausführung der verbrecherischen Höhenversuche an Insassen des Dachauer Konzentrationslagers beteiligt haben. Weiterhin hat sich ergeben, dass der Angeklagte Woltz an Planungen und Unternehmungen, die sich mit Unterkühlungsversuchen in Dachauer Konzentrationslager befassten, teilgenommen und damit in Verbindung gestanden hat.

4. HOEHENVERSUCHE

Schon fruehzeitig wurde es waehrend des Krieges fuer notwendig erachtet, Forschungen auf dem Hoehengebiet anzustellen, weil die alliierten Kampfflugzeuge groessere Hoehen erreichen konnten. Hier entstand das Problem der Verfuegbarkeit ^{von} menschlichen Versuchsobjekten, da Tierversuche als ungenuegend angesehen wurden. Die Hoehen, die in Frage kamen, lagen bei 12.000 Meter bis ueber 20.000 Meter hinaus, und es versteht sich daher von selbst, dass diese Art von Versuchen ausserst gefaehrlich war, und dass Freiwillige, wie aus dem Beweismaterial ersichtlich, nicht zu finden waren. Diese Schwierigkeit wurde durch die Verwendung von Konzentrationslagerhaeftlingen ohne deren Einwilligung ueberwunden. Das erste Anzeichen fuer diese verbrecherische Absicht erscheint in einem Brief des Dr. Siegmund Rascher, eines Luftwaffen-Arztes, an den Reichsfuehrer SS, datiert von 15. Mai 1941:

"Zur Zeit bin ich nach Muenchen zum Luftgaukommando VII kommandiert fuer einen aerztlichen Auswahlkurs. Waehrend dieses Kurses, bei dem die Hoehenflugzeugforschung eine sehr grosse Rolle spielt, - bedingt durch die etwas groessere Gipfelhoehe der englischen Jagdflugzeuge - wurde mit grossen Bedauern erwacht, dass leider noch keinerlei Versuche mit Menschenmaterial bei uns angestellt werden konnten, da die Versuche sehr gefaehrlich sind und sich freiwillig keiner dazu ergibt. Ich stelle darum ernsthaft die Frage: besteht die Moeglichkeit, dass zwei oder drei Berufsverbrecher zu diesen Versuchen von Ihnen zur Verfuegung gestellt werden koennen?" (1602-PS, Bow. 44, R. 167, Unterstreichungen eingefuegt).

Weiterhin geht aus diesem Rascher-Brief vom 15. Mai hervor, dass dieser sich mit einem anderen Luftwaffenarzt ins Benehmen gesetzt und ein vorlaeufiges Abkommen getroffen hat, wonach die Versuche an Konzentrationslagerhaeftlingen, bei denen anzunehmen war, dass die Versuchspersonen sterben wuerden, in der "Bodenstaendigen Pruefstelle fuer Hoehenforschung der Luftwaffe" in Muenchen durchgefuehrt werden sollten:

"Die Versuche werden angestellt in der 'Bodenstaendigen Pruefstelle fuer Hoehenforschung der Luftwaffe' in Muenchen. Die Versuche, bei denen selbstverstaendlich die Versuchspersonen sterben koennen, wuerden unter meiner Mitarbeit vor sich gehen. Sie sind absolut wichtig fuer die Hoehenflugforschung und lassen sich nicht, wie bisher versucht, an Affen durchfuehren, da der Affe vollstaendig andere Versuchsverhaeltnisse bietet. Ich habe mit dem Vertreter des Luftflottenarztes, der diese Versuche durchfuehrt, absolut vertraulich in diesbezuglicher Richtung gesprochen und dieser ist ebenfalls der Meinung, dass die in Frage kommenden Probleme nur auf dem Wege des Menschenversuches geklaert werden koennen." (1602-PS, Bew. 44, R. 167).

Rascher war Teilnehmer an einem medizinischen Ausloschkursus im Luftgau VII in Muenchen, auf dem drei wichtige Vorlesungen ueber Hoehenforschung von den Angeklagten Woltz, Buchner und Kottenhoff gehalten wurden. (Woltz, R. 7049). Um die Bedeutung dieser Vorlesungen und die Verbindungen zwischen Rascher, Woltz und Kottenhoff voll zu wuerdigen, muss man unbedingt die wechselseitige Stellung Kottenhoff's und des Angeklagten Woltz zu Rascher, dem Schreiber des Briefes an Himmler, in Betracht ziehen.

Kottenhoff war Oberfeldarzt im Luftgau VII. Er hatte von 1938 bis 1939 mit Woltz zusammengearbeitet und seine Fachausbildung im Physiologischen Institut in Muenchen erhalten. Kottenhoff war als Privatdozent an Woltz's Institut taetig und machte in seiner Abteilung Versuche an Affen. (Woltz, R. 7048). Woltz hat bezeugt, dass Rascher nach Beendigungen der Vorlesungen ueber Hoehenforschung an Kottenhoff herantreten ist mit dem Vorschlag, dass Hoehenversuche in Dachau durchgefuehrt werden sollten. Raschers Vorschlag war offensichtlich das direkte Ergebnis des Eindruckes, den die oben gehoerten Vorlesungen auf ihn gemacht hatten. Rascher war sich ueber die Gefahren, die in diesen Versuchen lagen, klar und wusste, dass der Fortgang der Forschungen nahezu undurchfuehrbar war wegen der Unmoeglichkeit, lebende Versuchspersonen als Freiwillige zu bekommen, und hat daher, nach einer Besprechung der Angelegenheit mit Woltz und Kottenhoff, den Brief an Himmler geschrieben.

Rascher konnte die noetige Fuehlung mit Himmler aufnehmen, denn er, besonders aber seine Frau, kannten Himmler persoenlich. Ausserdem war Rascher ein Mitglied der Allgemeinen SS. Man darf jedoch nicht ausser Acht lassen, dass waehrend des ganzen Verlaufes sowohl der Hoehen- und auch der Unterkuehlungsversuche (mindestens bis zum Mai 1943) Rascher Offizier im Sanitaetsdienst der Luftwaffe war, und in aktiven Dienst bei der Luftwaffe stand. Tausende von Personen sind Mitglieder der SS gewesen, waehrend sie aber tatsaechlich in anderen Zweigen der Wehrmacht dienten. Dies war z.B. der Fall bei den Entlastungszeugen Gutzeit. Es ist eine grundsaeztlich falsche Annahme, die von den Angeklagten aus der Luftwaffe vielfach gehegt wird, dass die Hoehen- und Unterkuehlungsversuche lediglich Verbrechen der SS waren. Nichts koennte irriger sein. Es besteht kein wesentlicher Unterschied zwischen ihnen und den Seewasserversuchen. Rascher unterstand Woltz mindestens bis zum Mai 1942 und blieb in aktiven Dienst der Luftwaffe bis mindestens zum Mai 1943.

Wir muessen die Bemerkung in Raschers Brief ueber die "Bodenstaendige Pruefstelle fuer Hoehenforschung der Luftwaffe" in Muenchen beachten. Dies war der Name des Muenchener Instituts, das unter der Leitung von Woltz stand (Woltz, R. 7050) und wo er sich hauptsaechlich mit der koerperlichen Ausdauer und den Reaktionen der Flugzeugfuehrer in grossen Hoehen befasste. Woltz hat ausgesagt, dass er nicht in der Lage war, die Erlaubnis fuer die Durchfuehrung dieser Versuche in seinem Institut zu erteilen, vor allem weil die fuer diese Versuche erforderlichen Befehle von der Luftwaffen-Sanitaetsinspektion ausgehen mussten. (R. 7050, R. 7178). Waehrend dies die Behauptung der Anklage, dass alle Angelegenheiten dieser Art stets vor die Sanitaetsinspektion gebracht wurden, erhaeftet, befreit es natuerlich Woltz nicht von der Verantwortung, da dieser, wie wir spaeter noch sehen werden, diese Versuche selbst plante, die Vorkehrungen dafuer traf

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und auch den Forschungsauftrag von der Sanitätsinspektion der Luftwaffe erhielt. Himmler gab seine Zustimmung fuer die Verwendung von Haeftlingen fuer die vorgesehenen Versuche kurz nach Erhalt von Raschers Brief. (1582-PS, Ankl.Bew. 45, R. 169).

Es ist interessant festzustellen, dass die Eidesstattliche Erklaerung Kottenhoff's, die von dem Angeklagten Woltz vorgelegt worden ist, (Woltz Bew. 4, R. 7052) Raschers Brief an Himmler noch in der Beziehung ergaenzt, dass weitere Versuche an lebenden Menschen als notwendig erachtet wurden. Natuerlich sagt Kottenhoff aus, dass Raschers Vorschlag in ihm gleich Bedenken hervorriefen, aber trotzdem hat er dann spaeter die Sache mit Woltz aufgenommen. Jetzt muss hier schon in Betracht gezogen werden, dass Rascher, Woltz und Kottenhoff saemtlich Angehoerige der Luftwaffe waren, und dass Woltz der Vorgesetzte der beiden war. Er hat nichts unternommen, diesen Vorschlag, Versuche mit Konzentrationslager-Haeftlingen vorzunehmen, zu unterbinden, sondern im Gegenteil, er hat seinen Untergebenen Rascher in diesen verbrecherischen Plan noch unterstuetzt und auch die Mitarbeit Ruff's und Romberg's wie auch den Forschungsauftrag von der Abteilung fuer Luftfahrtmedizin unter Anthony und Becker-Freysong erwirkt.

Woltz hat bezeugt, dass im Sommer 1941 ein Treffen gelegentlich eines Besuches des Generaloberstabsarztes Hippke beim Luftgau VII stattfand. (R. 7056). In einer Besprechung zwischen Woltz, Kottenhoff und Hippke, gab dieser sein grundsuetzliches Einverstaendnis zu den Versuchen, wenn diese fuer notwendig gehalten wuerden. (R. 7065). Im Laufe des Sommers 1941 ging Rascher zu Woltz und schlug Versuche mit langsamen Aufstieg vor, aber Woltz lehnte das als unnoetig ab. (R. 7176). Diese Aussage des Angeklagten Woltz zeigt eindeutig die Autoritaet Woltz hinsichtlich Raschers Taetigkeit. Die Verweigerung der Erlaubnis zur Vornahme von Versuchen mit langsamen Aufstieg erhaertet die

Behauptung der Anklage, dass der Angeklagte jeder Zeit die Macht und die Autorität gehabt hätte, einzuschreiten. Woltz's Handlungsweise während der ganzen Entwicklung der Pläne fuer die Versuche war nicht nur negativ. Er war durchaus einverstanden mit dem ganzen Unternehmen, und er sah ein, dass Rascher nicht die noetigen Kenntnisse besass, diese Versuche ohne die Mithilfe eines Fachmannes auf diesem Spezialgebiet der Luftfahrtmedizin durchzufuehren. Ausserdem gehoerte Rascher zu Woltz's Institut und hatte nichts zu tun. (Woltz, R. 7078, R. 7187). Einen Fachmann als Mitarbeiter fuer Woltz und Rascher zu finden, stellte sich als eine schwierige Aufgabe heraus. Woltz wandte sich als erstes an Mitglieder seines eigenen Instituts, naemlich an Lutz und Wendt, die beide einen grossen Ruf auf diesem Gebiet hatten, aber ohne Erfolg. Wolfgang Lutz erschien vor dem Gerichtshof und sagt aus, dass Woltz um seine Unterstuetzung gebeten habe, wie auch die von Wendt, dass sie aber beide aus moralischen Gruenden abgelehnt haetten. (R. 269). Woltz hat dies auch nicht bestritten, behauptet aber, dass seine Fragen an Lutz rein rhetorisch gewesen seien. (R. 7069).

Die Unmoeglichkeit, einen Spezialisten auf dem Gebiet der Hoehenforschung fuer die Zusammenarbeit mit Rascher zu interessieren, erklaert die lange Zeit zwischen dem Datum an dem Himmler seine Zustimmung gab und des tatsaechlichen Beginns der Versuche; also von Juli 1941 bis zum Februar 1942. Woltz war kein Spezialist fuer Hoehenforschung, Kottkehoff wurde nach Rumoenien versetzt, und Rascher war noch verhaeltnismassig neu auf diesem Gebiet.

Der naechste Schritt, den Woltz unternahm und der zum Abschluss der Pläne fuehrte, Hoehenversuche in Konzentrationslager Dachau an menschlichen Versuchspersonen vorzunehmen, war eine Aufforderung an Ruff und Romberg, Raschers Mitarbeiter zu werden. Diese beiden Maenner waren Fachleute auf diesem Gebiet und waren an weiteren Forschungsarbeiten bezueglich Hoehenlagen ueber 12.000 Meter interessiert. Woltz hat bezeugt,

dass er eine Reise nach Berlin unternommen hat, und dass Ruff seine Aufforderung zur Mitarbeit mit Rascher angenommen hat. (R. 7188). Aus der Beweiserhebung geht hervor, dass Woltz an Ruff und Romberg herangetreten ist, da er fachliche Hilfe brauchte. (NO-437, Ankl.Bew. 42, R. 161; NO-263, Ankl.Bew. 47, R. 172; NO-191, Ankl.Bew. 43, R. 162). Der Angeklagte Ruff hat ausgesagt, dass er zuerst von dem Angeklagten Woltz etwas ueber den Plan, die Forschungen an Insassen des Dachau Konzentrationslager vorzunehmen, gehoert hat, und dass Woltz den Wunsch nach einer Zusammenarbeit zwischen Romberg und Rascher und zwischen Woltz's und Ruff's Institut hatte. (R. 6653). Ausserdem hat Ruff ausgesagt, dass Woltz geaussert hat:

"Es ist selbstverstaendlich das richtigste, wenn Sie, bzw. Romberg, an diesen Versuchen teilnehmen, denn Romberg hat ja bereits in einem ersten Teil solche Absprungsversuche durchgefuehrt, er ist also praktisch in Deutschland der Mann, der solche Versuche schon ausgefuehrt hat, der Spezialist auf diesen Gebiete der Versuche zur Rettung aus grossen Noehen." (R. 6655).

Ruff hat weiterhin ausgesagt, dass Woltz vorgeschlagen hat, neue Versuchsreihen fuer Fallschirmabspruenge aus grossen Noehen in Dachau mit Gefangenen auszufuehren. (Ruff, R. 6653).

Von diesem Augenblick kam das Versuchsprogramm als ein gemeinsames Unternehmen in Gang. Dies ist am besten von dem Angeklagten Woltz ausgedrueckt worden:

"Es sollte ein gemeinsames Unternehmen sein, bei dem Ruff Romberg abstellte, und bei dem ich Rascher abstellte, und bei dem Ruff selbstverstaendlicherweise inner Chef von Romberg war, und ich ebenso selbstverstaendlich der Chef von Rascher war. Denn Ruff konnte ja Rascher nichts befehlen, Rascher war Stabsarzt, war Soldat, Ruff war Zivilist, ich konnte Romberg nichts befehlen, Romberg war Zivilangestellter, und ich war Soldat. Also diese Verteilung war vollkommen klar. Es war ferner klar, dass ich mich dann nicht etwa zurueckziehe, das ich nicht etwa Ruff den Rascher als Kuckucksei hinterlasse, sondern es war ganz klar, dass ich bei diesen Versuchen beteiligt bleibe in der Form der Aufsicht, aber nicht in der Form der aktiven Mitarbeit." (Woltz, R. 7079).

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Diese Aussage widerlegt ueberzeugend Woltz's vage Behauptung, dass er nicht nach Spezialisten fuer Hoehenforschung zur Mitarbeit mit ihm und Rascher gesucht haette. Ohne Woltz's Bemuehungen haetten diese Versuehe niemals stattfinden koennen. Kurz gesagt, Woltz hat es fuer die Durchfuehrung dieser Versuehe in Hoehen ueber 12.000 Meter fuer notwendig erachtet, sich die Hilfe von Spezialisten auf diesem Gebiet zu sichern, ebenso wie eine Unterdruckkammer zu bekommen, die seine Beduerfnisse befriedigte. Ruff und Romberg erfuellten sie in beider Hinsicht, und auf die oben geschilderte Weise hat Woltz den ganzen Plan geschickt manoevriert.

Unmittelbar nachdem Woltz die Verhandlungen mit Ruff abgeschlossen hatte, berief er eine Versammlung in seinem Muenchner Institut, bei der die technischen Seiten dieser Versuehe besprochen wurden. Bei dieser Versammlung waren Ruff, Romberg, Rascher und Woltz zugegen. Die Versammlung fand in Woltz's Institut statt, und Woltz hatte den Vorsitz dabei. Es wurde weiterhin beschlossen, in einigen Tagen eine zweite Versammlung in Dachau abzuhalten, um die noetigen Abmachungen mit dem Lagerkommandanten zu treffen. Diese Reise wurde unternommen, um die technischen Vorbereitungen mit dem Lagerkommandanten zu besprechen und Einzelheiten wegen der Auswahl der Versuchsobjekte festzulegen. Woltz, Ruff, Romberg und Rascher waren wieder anwesend und ausserdem Piorkowski, der Lagerkommandant und Schnitzler vom Stabe der Reichsfuehrung-SS (NO-476, Ankl. Bew. 40, R. 155; NO-437, Ankl. Bew. 42, R. 161; NO-263, Ankl. Bew. 47, R. 172; Woltz, R. 7086-7).

Nachdem die Vorbereitungen mit den Lagerbehoerden getroffen waren, war als naechstes die Frage des Transportes der Unterdruck-Kammer aus Berlin zu klaeren. Wie bereits weiter oben angefuehrt, wollte Woltz gern die Unterdruck-Kammer, die Ruff und Romberg gehoerte, zur Verwendung fuer seine Versuehe in Dachau haben. Es ist interessant festzustellen, dass Woltz eine Unterdruck-Kammer in seinem eigenen Institut seit 1938 zur Verfuegung stand, (Woltz, R. 7178),

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und dass Wetzl ausgesagt hat, Freiwillige von seinen Studenten oder aus der Luftwaffe ständen zur Verfügung, (Wetzl, R. 7180-83). Trotzdem musste man auf Konzentrationslagerinsassen zurückgreifen und zur Durchführung der Versuche eine transportable Druckkammer aus dem Ruff-Institut in Berlin herbeischaffen, weil die Unterdruckkammer im Wetzl-Institut nicht transportabel war. Die bewegliche Unterdruckkammer wurde aus dem Berliner Ruff-Institut nach München in das Wetzl-Institut gefahren und kam dort spät am Nachmittag an. Angestellte des DVL nahmen den Transport vor und übergaben die Kammer an Wetzl. Am nächsten Tage kamen SS-Fahrer von Dachau, nahmen die Schlüssel der Kammer in Empfang und fuhren sie in das Konzentrationslager. (Wetzl, R. 7199). Der Zweck dieser Verschleierung war die Täuschung der DVL-Angestellten, da Wetzl und Ruff nicht wünschten, dass sie Kenntnis von der Verwendung der Unterdruckkammer für Experimente in einem Konzentrationslager erhielten. Der Beweis dafür ist die Verwendung völlig neuer Fahrer für den Transport der Kammer in das Konzentrationslager Dachau. Diese Verschleierung wird besonders auffällig, wenn man bedenkt, dass Dachau nur 12 km von München entfernt ist, und dass die DVL einen ausgesprochenen Umweg zur Ablieferung der Kammer im Wetzl-Institut zu machen hatten. Ruff hat ausgesagt, dass die Geheimhaltung des Transports der Kammer nach Dachau aus Sicherheitsgründen erfolgt sei. (Ruff, R. 6550).

Das bisher zusammengefasste Beweismaterial und auch das eigene Eingeständnis von Wetzl, machen es klar, dass er wegen der mit den Höhenversuchen in Dachau verbundenen Verbrechen für schuldig befunden werden muss. Dies war von Anfang an ein verbrecherisches Unternehmen. Allen Beteiligten war es bekannt, dass die geplanten Versuche Todesfälle zur Folge haben und an Nicht-Freiwilligen ausgeführt werden würden. Beweis dafür ist das allererste Schreiben an Himmler. Wetzl unterstützte den

Ehrgeiz seines Untergebenen Rascher, die Versuche fuer das Wetz-Institut durchzufuehren. Er versicherte sich der Mitarbeit Ruffs und Rombergs. Er erwirkte die Zustimmung von Hippke und die Ausstellung eines Forschungsauftrages seitens des Referates fuer Flugmedizin unter Anthony und Becker-Freyseng. Er traf die technischen Anordnungen und beteiligte sich an Besprechungen mit Ruff, Romberg und Rascher, welche ueber die durchzufuehrenden Versuche entschieden. Wetz hat zur Durchfuehrung der Versuche mehr beigetragen als irgend ein anderer. Schon auf Grund dieses Beweismaterials ist seine Schuld klar erwiesen. Es wird nicht bestritten, dass Rascher ihm bis Februar 1942 unterstellt war. In der Hauptsache gruendet sich die Verteidigung von Wetz darauf, dass er Rascher Ende Februar 1942 aus seinem Institut versetzen liess und dass er deshalb fuer spaetere Vorgaenge nicht verantwortlich gemacht werden koenne. Auch wenn dieses wahr sein sollte, ist das noch keine Entschuldigung. Schon lange vorher hatte Wetz an den verbrecherischen Unternehmungen teilgenommen. Man darf seine Worte "gut, ich habe das zwar alles getan, aber ich bin doch nicht fuer die Folgen, die meine Handlungen voraussichtlich haben werden, verantwortlich" nicht als genuegende Entschuldigung annehmen. Die bei diesen Versuchen auftretenden Todesfaelle waren von Anfang an vorauszusehen. Wetz kann sich der Verantwortung fuer diese Todesfaelle nicht entziehen, selbst wenn es zutrifft, dass Rascher im Augenblick des Auftretens dieser Todesfaelle nicht ihm unterstellt war. Aber es liegen Beweise dafuer vor, dass dies nicht wahr ist.

Tatsaechlich wurden die Dachauer Versuche am 22. Februar 1942 begonnen und der Zeuge Neff entsinnt sich dieses Tages, weil es sein Geburtstag war. (Neff, K. 606). Wetz stellt sich auf den Standpunkt, dass er von diesem Augenblick an keine Kenntnis von den Vorgaengen gehabt habe und dass Rascher tatsaechlich seinem Befehlsbereich entzogen wurde. Wetz hat zugegeben, dass es seine Aufgabe war, Rascher zu ueberwachen und dass nach der zwischen Ruff und Wetz bestehenden Vereinbarung dies eine gemeinsame Unternehmung war. Ruff ueberwachte Romberg, und Wetz

hatte Rascher zu ueberwachen. Woltz hat zugegeben, dass er Raschers Disziplinarvorgesetzter und fuer die wissenschaftlichen Aufgaben, mit denen er Rascher betraute, verantwortlich war, (Woltz, R. 7088). Trotz dieses Vorgesetztenverhaeltnisses und Arbeitsabkommens erklaert Woltz jetzt, dass Rascher sich bestrebt, unabhaengig zu arbeiten und dass er keine Meldungen an Woltz zu erstatten wuenschte. (Woltz, R. 7088-9). Woltz musste Rascher anbefehlen, zweimal in der Woche Berichte zu erstatten, und auf Grund dieses Befehls, behauptet Woltz, dass Rascher ihn Mitte Februar aufgesucht habe, dass dies ihre erste Unterredung seit der Dachauer Zusammenkunft gewesen sei und dass Rascher ihn, Woltz, unterrichtet habe, dass die Versuche noch gar nicht begonnen haetten und dass er nichts zu berichten habe. (Woltz, R. 7089).

Woltz hat ausgesagt, dass Anthony, unter dem Becker-Freyseng in der Luftwaffen-sanitaetsinspektion arbeitete, ihn fernmaendlich ueber den Fortgang der Dachauer Versuche befragt habe und dass er nur habe erwidern koennen, dass ihm nichts gemeldet worden sei. Rascher meldete sich bei ihm zum zweiten Male und Woltz gab Rascher von dem Berliner Anruf Kenntnis und erklaerte, er wuensche Aufklaerung darueber, wie die Dinge in Dachau laegen. Bei dieser zweiten Unterhaltung weigerte sich Rascher, Woltz einen Bericht zu geben und Woltz behauptet, er habe Rascher erklaert, er werde nach Berlin fahren, um die Lage zu klaeren und eine Entscheidung darueber herbeizufuehren, ob Rascher ihm Bericht zu erstatten habe oder nicht. Bei Raschers drittem Besuch bat Woltz, der eine scharfe Auseinandersetzung erwartete, Wendt, ein Mitglied seiner Abteilung, in sein Zimmer zu kommen und dann stellte er Rascher vor die Wahl, ihm entweder Berichte zu erstatten oder das Institut zu verlassen. Woltz behauptet, dass Rascher ihm damals ein Telegramm Himmlers gezeigt habe, das lautete: "Versuche sind vor jedermann geheim zu halten". (Woltz, R. 7090). Daraufhin, sagt Woltz, habe er Rascher aus seinem

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Institut verwiesen und dann zusammen mit Wendt ein Schreiben an den Luftgau aufgesetzt und um Raschers sofortige Versetzung ersucht, woraufhin Raschers Kommando nach wenigen Tagen beendet gewesen sei. (Weltz, R. 7090).

Das Schreiben Nini Raschers an Himmler vom 24. Februar 1942 beweist, dass Rascher zu dieser Zeit Weltz noch unterstellt war. (NO-263, Ankl. Bew. 47, R.172). Sie gab eine Darstellung ueber die Geschichte der Versuche und wies darauf hin, dass Rascher, Kottenhoff und Weltz am 24. Juli 1941 mit der Durchfuehrung beauftragt worden waren. Kottenhoff wurde im August nach Rumaeenien versetzt und schied damit aus der Gruppe aus. Nach ihrer Angabe hatte Weltz fuer die technischen Vorbereitungen der Versuche zu sorgen. Wahrscheinlich infolge der Besorgnis vor moralischen Einwendungen Hippkes hatte Weltz den Beginn der Versuche hinausgeschoben und schliesslich Ruff und Romberg fuer die Zusammenarbeit mit Rascher gewonnen. Es folgte eine Besprechung in Dachau zwischen Piorkowski, Schnitzler, Weltz, Rascher, Romberg und Ruff. Weltz hatte zugesichert, fuer die Ermächtigung Raschers sorgen zu wollen. Am 18. Februar beklagte sich Frau Rascher darueber, dass Weltz gesagt habe, nachdem Rascher alle Vorarbeiten ausgefuehrt hatte: "Nun haben Sie ja Romberg bei der SS alle Wege geebnet, mit dem Kommando muss es jetzt anders gemacht werden". Frau Rascher gab an, dass sowohl Romberg als auch Rascher darin uebereinstimmen, dass Weltz nicht mehr noetig sei und dass beide sich allen Versuchen von seiten Weltz, Rascher zu seinen eigenen Gunsten auszuschalten, widersetzt haetten.

Weltz behauptet, die Wahrheit bei der Sache war, dass er Rascher los sein wollte, und er hat behauptet, Frau Rascher habe falschlich die Gelegenheit Himmler gegenueber so dargestellt, als ob er haette Rascher ausschalten wollen, um die ganzen Arbeiten fuer sich allein zu reservieren. (Weltz, R. 7099). Ohne jede Frage hatte Frau Rascher mit ihrer Darstellung der Sachlage Recht. Was fuer einen anderen Grund konnte denn Weltz

gerade vor dem Beginn der Versuche fuer seinen Wunsch nach Ausschaltung Raschers haben, wenn nicht, um selbst daran teilzunehmen und sich auf diese Weise einen groesseren Anteil an dem wissenschaftlichen Ruhm zu sichern? Sicherlich hatte er Rascher gleich nach Anregung zur Ausfuehrung der Versuche unterstuetzt. Sei dem wie ihm wolle, das Beweismaterial zeigt, dass Rascher auch fernerhin als Wetzels Untergebener an den Versuchen teilnahm. Dies wird klar durch einen Aktenvermerk Schnitzlers vom Muenchener SS-Amt vom 28. April 1942 erwiesen. (NO-264, Ankl. Bew. 60, R. 194). Dieser Vermerk zeigt offensichtlich, dass Rascher immer noch Wetzels unterstellt war und dass Wetzels auf aktiver Teilnahme an den Versuchen und voller Verantwortlichkeit bestand. Das RLM hatte bei Wetzels angefragt, wie lange die Versuche dauern wuerden und ob es zu rechtfertigen sei, einen Sanitaetsoffizier fuer so lange Zeit abzustellen. Rascher, der unter der Unterstellung unter Wetzels litt, bat um seine Versetzung zur DVL, Zweigstelle Dachau.

Zu diesem Schriftstueck hatte Wetzels lediglich zu bemerken, dass das Datum unrichtig sei und statt 28. April richtig 28. Februar 1942 lauten muesse. (R. 7099 und ff.). Im Kreuzverhoer gab Wetzels zu, dass, wenn man das Datum vom 28. April 1942 als richtig annaehme, Rascher natuerlich zu dieser Zeit noch sein Untergebener war. (Wetzels, R. 7232). Diese Frage wird durch den Aktenvermerk von Sievers vom 3. Mai 1942 ganz eindeutig beantwortet. Dieser Vermerk lautet:

"Ueber den Ausgang der Besprechung mit Oberstabsarzt Dr. Wetzels berichtete SS-Untersturmfuehrer Stabsarzt Dr. Rascher am 29.4.42 in Muenchen. Wetzels verlangte, wenn er nicht bis zum Freitag, dem 1.5.42, zu den Versuchen hinaugezogen wuerde, Rueckziehung von Dr. Rascher. Der Reichsfuehrer-SS wurde davon unterrichtet. Er beauftragte SS-Obergruppenfuehrer Wolff am 30.4.42 ein Fernschreiben an Generalfeldmarschall Milch zu richten, in dem gebeten werden sollte, Dr. Rascher zur Deutschen Versuchsanstalt fuer Luftfahrt, Aussenstelle Dachau, und zwar zur Verfuegung des Reichsfuehrers-SS zu kommandieren." (NO-1359, Ankl. Bew. 493, R. 7238).

Als ihm dieses Schriftstueck vorgehalten wurde, hat eltz tatsaechlich zugegeben, seine fruhere Aussage ueber Raschers Versetzung sei, um es gelinde auszudruecken, unzutreffend gewesen. Er hat gesagt:

"Jawohl, jetzt sieht die Sache natuerlich ganz anders aus. Wenn ich diesen Aktenvermerk von Sievers dazu gehabt haette, haette ich ja gewusst, dass die Aktennotiz Schnitzler richtig ist, und dass es eine andere Moeglichkeit der Erklaerung fuer den Brief der Frau Nini Rascher geben muss, die jetzt wieder nicht zu erklaren ist. Ich kann ja nur hier versuchen, aus den mir vorgelegten Dokumenten die Zeiten, die ich heute dem Datum nach selbstverstaendlich nicht mehr weiss, zu rekonstruieren." (Weltz, R. 7239).

Bei der zweiten Befragung durch seinen Verteidiger wurde Weltz nochmals aufgefordert, ueber das Dienstverhaeltnis Raschers zu ihm klare Auskunft zu geben, worauf er erwiderte:

"Nachdem der Versuch, die Widersprueche aufzuklaeren, in der Form, wie ich es gedacht habe, gescheitert ist, moechte ich keinen neuen Versuch unternehmen. Ich weiss es nicht. Ich kann es nicht aufklaeren nach dem vorliegenden Material." (Weltz, R. 7251).

Ein Schreiben Milchs an Wolff vom 20. Mai 1942 erhoelt ganz unmissverstaendlich die Tatsache der Unterstellung Raschers unter Weltz:

"Zu Ihrem Telegramm vom 12.5. teilt mir unser Sanitaets-Inspekteur mit, dass die von der SS und der Luftwaffe in Dachau durchgefuehrten Hoehenversuche abgeschlossen sind. Eine Fortsetzung dieser Versuche erscheine sachlich nicht begruendot. Dagegen sei die Durchfuehrung von Versuchen anderer Art, die Seenotfragen betreffend, wichtig, diese sind im unmittelbaren Benehmen der Dienststellen vorbereitet; Oberstabsarzt Weltz wird mit ihrer Durchfuehrung beauftragt und Stabsarzt Rascher bis auf weiteres auch hierfuer zur Verfuegung gestellt unter Beibehaltung seiner Aufgaben innerhalb des Sanitaetsdienstes der Luftwaffe." (343a-PS, Ankl. Bew. 62, R. 200).

Damit wird es ganz klar, dass Weltz fuer die vielen waehrend der Dachauer Hoehenversuche vorgekommenen Morde fuer verantwortlich erklaert werden muss. Er nahm nicht nur an Plaenen und Handlungen im Zusammenhang mit diesen Versuchen teil, sondern war auch der unmittelbare Vorgesetzte Raschers, der zusammen mit Ruff und Romberg die Versuche tatsaechlich ausfuehrte.

Status der bei den Versuchen verwendeten Gefangenen

Nachdem sich WELTZ mit Erfolg der Mitarbeit RUFFS und ROMBERGS versichert hatte, hielt er Ende Dezember 1941 oder Anfang Januar 1942 in seinem Muenchener Institut eine Konferenz ab. (Ruff, R. 6657; WELTZ, R. 7086). Ruff, Romberg, WELTZ und Rascher nahmen daran teil, hauptsächlich um die grundlegenden technischen Vorbereitungen fuer die Ausfuehrung der Dachauer Arbeiten zu treffen. Alle Angeklagten behaupten, dass die Statusfrage der bei den Arbeiten zu verwendenden Versuchspersonen erörtert wurde und dass Rascher erklärt habe, es würden ausschliesslich Freiwillige verwendet werden. (WELTZ, R. 7086; Ruff, R. 6232; Romberg, R. 6869). Tatsächlich sagen die Angeklagten aus, Rascher habe ihnen eine Mitteilung Himmlers vorgezeigt, laut welcher unter allen Umstaenden Freiwillige zur Verwendung kommen sollten. (Romberg, R. 6869). Leider hat die Verteidigung diesen Brief nicht beibringen koennen. Es ist ueberfluessig zu erwahnen, dass die Angeklagten sich auf den Standpunkt stellen, dass solche Versuche nur an gewohnheitsmaessigen und verurteilten Verbrechern vorgenommen werden sollten, und dass diese "Freiwilligen" im Falle des Ueberlebens der Versuche belohnt werden wuerden. Romberg hat tatsaechlich ausdruecklich erklärt, er habe den "Himmler-Brief" gesehen und die Worte "Verbrecher" und "Freiwillige" darin gesehen. (Romberg, R. 6870).

Die Behauptung der Angeklagten, Himmler habe verfügt, die zu verwendenden Verbrecher muessten Freiwillige sein, ist laecherlich und unglaubwuerdig, wenn man bedenkt, dass Himmler Rascher anwies, diese ungluecklichen Gefangenen nur dann zu begnadigen, wenn sie, nachdem sie von Rascher in seinem ersten Zwischenbericht geschilderten Versuchen unterworfen worden waren, wieder zum Leben zurueckgerufen werden konnten. Nach diesem Bericht hatte die Atmung der Versuchspersonen voellig aufgehört und die Brust war ihnen geoeffnet worden, d.h. man hatte sie bereits seziert. (1971a-PS, Ankl. Bew. 49, R. 175).

In dieser Hinsicht hat Himmler gnaedig erklart:

"3.) Die Versuche sollen vor allem in der Richtung einmal ausgewertet werden, ob es nicht moeglich ist, bei diesen langen Arbeiten des Herzens derartige Menschen wieder ins Leben zurueckzurufen. Sollte ein solcher Versuch des Zurueckrufens in das Leben gelingen, so ist selbstverstaendlich der zum Tode Verurteilte zu lebenslaenglichem Konzentrationslager begnadigt." (1971b-PS, Ankl. Bew. 51, R. 180).

Es ist laecherlich, der Behauptung, Himmler habe die Verwendung von ausschliesslich freiwilligen Versuchspersonen verfuegt, irgendwelches Gewicht beizumessen. Diese Maenner wussten genau, dass Freiwillige nicht zu finden waren, und das war der wahre Grund, weshalb sie sich an Himmler wandten. Dies wird durch Raschers Schreiben an Himmler erhellt, in dem er um die Verfuegbarmachung von Verbrechern nachsuchte, da "niemand sich freiwillig melde". (oben).

Im Zeugenstand hat der Angeklagte Ruff zugegeben, dass die an seinerseitsigen Person und an Berliner Kollegen vorgenommenen Versuche sich bis zu Hoeohen von 12.000 Metern erstreckten und dass die Frage, was zwischen 12.000 und 20.000 Meter Hoehe vor sich gehen wuerde, in der Folge in Dachau untersucht wurde. (Ruff, R. 6679). Daraus geht ^{klar} hervor, dass Ruff, Romberg, Weitz und Rascher keine Lust hatten, diese Untersuchungen an sich selbst vorzunehmen.

Die Beweisaufnahme hat ergeben, dass mit ein paar geringfuegigen Ausnahmen die Hoeohenversuche nicht an Freiwilligen durchgefuehrt wurden. Die Lagerinsassen wurden einfach nach Gutduenzen ausgewaehlt und gezwungen, sich den Versuchen zu unterziehen. Es wurden Russen, Polen, Juden verschiedener Nationalitaet und Deutsche verwendet, desgleichen russische Kriegsgefangene und viele politische Gefangene. Rund 180 bis 200 Haeftlinge wurden den Versuchen unterworfen, und 70 bis 80 starben infolge der Versuche. Nicht mehr als 40 von ihnen waren "zum Tode verurteilt" worden. Unter den Getoeteten befanden sich auch politische Gefangene. (Neff, R. 613-18; siehe auch Vieweg, R. 432). Dieses Zeugnis von Neff, der als Lagerinsasse bei den Versuchen zu helfen hatte, und der

Ruff, Romberg und Eltz identifiziert hat, wird durch Raschers telegraphische Anfrage bei Himmler bestaetigt, ob die Amnestie sich auch auf die bei den Versuchen ausgiebig verwendeten Russen und Polen erstreckte. (1971d-PS, Ankl. Bew. 52, R. 183). Nationalitaet und Status der Insassen waren aus den auf ihrer Uniform befindlichen Abzeichen klar ersichtlich. Ruff und Romberg haetten daraus ersehen muessen, dass auslaendische und politische Gefangene verwendet wurden. (Neff, R. 616-7).

Die Aussage des Zeugen Neff enthueilt die Tatsache, dass ungefaehr 10 Gefangene als Dauerversuchspersonen ausgewaehlt wurden, es waren dies aber keine Freiwilligen. (Neff, R. 611; 622; Vieweg, R. 430). Es gab indessen auch einige "Freiwillige" wie Neff sagt. Er hat ausgesagt, dass "es fuer diese Versuche einige Freiwillige gab, weil Rascher bestimmten Personen ihre Freilassung aus dem Lager versprochen hatte fuer den Fall, dass sie sich fuer die Versuche zur Verfuegung stellten". (Neff, R. 614). Neff hat deutlich auseinandergesetzt, dass es in Anbetracht der Art der Auswahl und Verwendung der Versuchspersonen unmoeglich war zu wissen, wer ein Freiwilliger und wer kein Freiwilliger war. (Neff, R. 606-26). Sie wurden nicht als besondere Gruppe hereingefuehrt oder verwendet. Ausserdem ergibt sich aus der Beweisfuehrung, dass diese Versprechungen nicht gehalten wurden. (R. 615). Der einzige Beweis fuer eine Freilassung ist der Fall Sobota, wie Neff ihn darstellt, und dieser wurde zu einer wenig wuensenswerten SS-Sonderkommando-Gruppe gesandt. Todesstrafen sind nicht umgewandelt worden.

Die Verteidigung macht zu Gunsten Ruffs und Rombergs geltend, dass die Dachauer Versuche in zwei Gruppen eingeteilt waren. Die "erste Gruppe", die sogenannten Ruff-Romberg-Rascher-Versuche, waeren nicht verbrecherischer Natur gewesen, waehrend die zweite Gruppe, die Rascherschen Versuche, alle Verbrechen umfasst habe. Sie behaupten, dass die Ruff-Romberg-Rascher-Versuche unabhaengig von den Rascherschen Versuchen durchgefuehrt wurden und dass die von Neff und Vieweg erwaehnten zehn urspruenglichen Versuchspersonen ausschliesslich

Es ist die Ruff-Romberg-Rascher-Versuche verwendet worden seien. Trotz der Zeugenaussagen und des vorliegenden gewichtigen Dokumentenmaterials wollen sie dem Gerichtshof glaubhaft machen, dass, durch eine wunderbare Schicksalsfuegung, dies alles Freiwillige gewesen und Verbrechen nicht vorgekommen waeren. Dieses Vorbringen kann sich natuerlich nicht auf Weltz erstrecken. Rascher war sein Untergebener und unterstand seinen Befehlen.

Man beachte, dass Romberg und Rascher, die in der Dachauer Hoehenkammer 30 bis 40 Minuten lang bis auf 12.500 bzw. 13.500 Meter aufstiegen, diese Versuche wegen starker Schmerzen einstellten. (NO-402, Ankl. Bew. 66, R. 213). Und doch gingen diese Maenner, wie ihr gemeinsamer Bericht zeigt, dazu ueber, Versuche an Gefangenen zu unternehmen, die sie nicht an eigenen Leibe vornehmen wollten.

Die Experimentatoren uebernahmen keinerlei Verantwortung noch bezeugten sie irgendein Interesse dafuer, dass die angeblich gemachten Versprechungen, die die Versuchspersonen dazu verleiten sollten, sich freiwillig zu melden, auch gehalten wurden. (Romberg, R. 6993). Obgleich Romberg behauptet hat, er habe an Himmler nicht herankommen koennen, hat er andererseits zugegeben, Himmler im Juli 1942 zusammen mit Rascher aufgesucht zu haben. (Romberg, R. 7015-6).

In dieser Verbindung muessen wir die Zweckbehauptung der Verteidigung naeher betrachten. Durch die Beschraenkung der Ruff-Romberg-Rascher-Versuche auf die zehn Personen behauptet die Verteidigung ferner, bei diesen Versuchen habe es, gegenueber der betraechtlichen Anzahl von Todesfaellen bei den Rascherschen Versuchen, keine Todesfaelle gegeben. Dagegen hat der Zeuge Neff bei seiner Beschreibung des ersten Versuchstages nachdruecklich erklart, dass die erste Versuchsreihe nicht an Freiwilligen vorgenommen wurde. Ausserdem war der Angeklagte Ruff bei diesen Versuchen ebenfalls zugegen. (Neff, R. 622). Die Behauptung der Angeklagten ueber die Einteilung der Versuche in zwei Gruppen wird von Neff ausdruecklich in Abrede gestellt. Er hat ausgesagt, Romberg habe nicht nur mit Rascher an den urspruenglichen zehn Versuchspersonen experimentiert, sondern auch

an einer grossen Anzahl anderer Gefangener. Der von den Angeklagten konstruierten Einteilung kann also in dem Lichte der Zeugenaussage Neffs kein Glauben beigemessen werden. Auf die Frage, ob Romberg nur an den zehn urspruenglichen Personen Versuche vorgenommen habe, erwiderte Neff: "Es wurden nicht nur mit diesen 10 Personen Versuche gemacht, sondern, beispielsweise, in Serienversuchen, die ja auch durch Romberg durchgefuehrt wurden, an einer sehr grossen Anzahl anderer Haeftlinge. Die Unterscheidung, die der Verteidiger zu machen versucht zwischen Versuchen, die nun in der Meldung an den Luftgau gemacht wurden, bezw. der Todesfaelle, ist mir unmoeglich, diese Unterscheidung zu machen und diejenigen zu bezeichnen, die in jene Kategorie fallen bezw. in die andere Kategorie." (R. 691). Wem soll man glauben, dem Zeugnis Neffs und dem eigenen Menschenverstand, oder den zweckbedingten Angaben der Angeklagten? Dies ist eine Frage, die der Gerichtshof zu beantworten hat. Es gibt keinen halben Moerder. Entweder sind die Angeklagten fuer diese Morde verantwortlich oder sie sind nicht verantwortlich. Es liegt keine Spur eines Beweises fuer die laecherliche Behauptung vor, es sei fuer den Gebrauch durch Romberg eine Gruppe von Freiwilligen abgezweigt worden, die andersfarbige Hemden trugen, damit er sie auseinanderhalten koennte und die mit der groessten Hochachtung behandelt worden waeren. Aber genau das wollen Ruff und Romberg dem Gericht einreden. Angesichts der Unterlagen ist das eine Unmoeglichkeit.

Diese angebliche Nichtbeteiligung Ruffs und Rombergs an "ausschliesslich von Rascher begangenen Verbrechen" steht ⁱⁿ vollkommenem Widerspruch zu den Handlungen dieser Angeklagten waehrend der Versuche, die letzten Endes doch deutlicher sprechen als ihre jetzigen Aussagen. Neff hat bezeugt, dass Romberg persoenlich bei mindestens fuenf Todesfaellen im Verlauf der Versuche anwesend war und dass er nichts unternahm, sie zu unterbinden und nicht mal nachher protestierte. (R. 619). Romberg hat eingestanden, drei Todesfaelle beobachtet und von fuenf bis zehn

in seiner Abwesenheit vorgekommenen Morden Kenntnis gehabt zu haben. (NO-476, Ankl. Bew. 40, R. 155). Nach Rombergs Angabe, ereignete sich der erste Todesfall, den er sah, im April. Er hat ihn Ruff gemeldet. Trotzdem wurden die Versuche nicht abgebrochen. Sie gingen bis Ende Juni weiter und weitere Todesfaelle ereigneten sich, die Romberg gesehen hat. Zum allermindesten sind die Angeklagten infolge der Fortsetzung der Versuche mitschuldig an den Ermordungen geworden. Dies ist eine Tatsache, moegen sie auch bis zum Eintreten des ersten Todesfalles noch so unschuldig gewesen sein. Es waere ihre Pflicht gewesen, die Versuche sofort einzustellen, die Kammer zu entfernen und ein Kriegsgerichtsverfahren gegen Rascher durchzusetzen. Von all diesen einfachen und offensichtlichen Dingen taten sie nichts. Sie taten es nicht, weil mit den Todesfaellen von allem Anfang an gerechnet wurde und sie ein Teil des Versuchsplanes waren. Romberg sah diese Menschen sterben und hat absolut nichts unternommen. Es lag damals in seiner Macht, sie zu retten. Er sagt, er habe den Elektrokardiographen bedient. Er wusste genau, auf Grund ihrer Herztaetigkeit, wann die Versuchspersonen in Lebensgefahr schwebten. Er wusste dies auch aus seiner Kenntnis der Wirkung grosser Hoehen. Er konnte die Druckmessapparate sehen und ablesen. Er haette den Druck mindern und ihnen das Leben retten koennen, indem er einfach den in Reichweite befindlichen Hebel betaetigte. Er war groesser als Rascher. Im Notfall haette er Gewalt gebrauchen koennen. Aber er tat nicht nur nichts, waehrend die hilflosen Opfer vor seinen eigenen Augen starben, sondern wirkte auch noch bei den blutigen Sezierungen mit.

Nachdem sich all diese Morde ereignet hatten und Ruff und Romberg bekannt geworden waren, arbeiteten sie dennoch weiter. Sie gaben im Juli einen gemeinsamen Bericht ueber die Versuche unter den Namen Ruff, Romberg und Rascher heraus. (NO-402, Ankl. Bew. 66, R. 213). Sie setzten ihre Zusammenarbeit mit diesem erwiesenen Moerder fort und liehen ihm den Mantel ihres wissenschaftlichen Rufes. Auf Empfehlung Raschers wurde Romberg eine Medaille fuer seine Arbeit bei den Versuchen verliehen. (1607a-PS, Ankl. Bew. 65, R. 204).

Romberg unterstuetzte Rascher noch im September 1942 und sollte Milch ueber die Versuche mit Rascher zuendlich berichten. Er verfasste in Raschers Namen ein Schriftstueck mit der Erklaerung, dass der Bericht deshalb nicht abgegeben wurde, weil Milch ihn nicht zur bestimmten Zeit empfangen konnte. Dieses gleiche Schriftstueck, das von Romberg unterzeichnet war, beweist, dass er bestrebt war, die Hoehenversuche mit Rascher fortzusetzen und die Genehmigung Milchs dafuer erbat. Er schrieb: "Oberstarzt Kalk erklaerte sich bereit, dem Staatssekretaer (Milch) unsere Wuensche bezueglich Aufstellung des Verteilers (des Berichts) und der Fortsetzung der Versuche vorzutragen. ... Oberstarzt Kalk hat noch am 11. September dem Staatssekretaer unsere Wuensche bezueglich Verteiler und Fortsetzung der Versuche uebermittelt. Der Staatssekretaer hat den vorgeschlagenen Verteiler genehmigt und gesagt, dass es mit einer Fortsetzung der Versuche nicht eilig sei." (NO-224, Ankl. Bew. 76, R.223, Din 271). In der Zwischenzeit waren die moerderischen Kaelte-Versuche mit dem Luftwaffe-Team Holaloechner, Finke und Rascher begonnen worden. Sowohl Ruff wie Romberg und Weltz hoerten den Bericht ueber diese Versuche in Nuernberg im Oktober 1942. (NO-401, Ankl. Bew.93, R.309). Hippke schrieb selbst am 8. Oktober 1942 einen besonderen Dankesbrief an Himmler, in dem er sagte: "Sobald die Arbeiten auch weiter Ihre guetige Unterstuetzung benoetigen, bitte ich, mich durch Stabsarzt Dr. Rascher erneut an Sie wenden zu duerfen." (NO--289, Ankl. Bew.72, R.216).

Wenn die Aussagen von Ruff und Romberg von dem Gericht als glaubwuerdig befunden werden, dann muessen die von ihnen selbst verfertigten Schriftstuecke und die oben angefuehrten Aussagen als unwahr verworfen werden. Ruffs und Rombergs und ueberhaupt der gesamten Luftwaffe angebliches Nichts-damit-zu-tun-Haben mit den Verbrechen ihres Mitarbeiters Rascher kann nicht mit den unbestrittenen Handlungen dieser Angeklagten in Einklang gebracht werden. Die Wahl ist eindeutig.

Analyse der Versuche

Die Dachauer Versuche auf dem Gebiete der Höhenforschung wurden zu dem Zwecke durchgeführt die Reaktionen des menschlichen Organismus bei Höhen ueber 12.000 Meter zu bestimmen. Der Angeklagte Romberg hat ausgesagt, dass vier Versuchsreihen durchgeführt wurden: a) Sinkversuche ohne Sauerstoff-Atmung, b) Sinkversuche mit Sauerstoff-Atmung, c) Fallversuche ohne Sauerstoff-Atmung und d) Fallversuche mit Sauerstoff-Atmung. (NO-476, Ankl. Bew.40, R. 155). Die ersten beiden Versuche waren darauf abgestellt, ein Sinken mit entfalteten Fallschirm nachzuahmen, waehrend die beiden letzteren ein freies Fallen aus einem Flugzeug vor Entfaltung des Fallschirms andeuten sollten. Wie in Dr. Raschers ersten Zwischenbericht ueber die Versuche ausgefuehrt, war ein zusaetzliches Problem zu loesen, naemlich zu bestimmen, ob die theoretisch ermittelten Werte ueber die Lebensdauer des Menschen in sauerstoffarmer Luft und bei niedrigem Druck mit den im praktischen Versuch gewonnenen Resultaten uebereinstimmen. Dieser Zwischenbericht Raschers fuehrt folgendes aus:

"Versuche ueber die Lebensdauer eines Menschen oberhalb der normalen Versuche ueber die Lebensdauer eines Menschen oberhalb der normalen Atmugrenze (4,5-6km) wurden ueberhaupt nicht angestellt, da mit Sicherheit feststand, dass die Versuchsperson (Vp) den Tod erleiden muesse.

Die von mir und Dr. Romberg angestellten Versuche zeigten das folgende: 1. Der Sauerstoffmangel bzw. der niedere atmosphaerische Druck haben im Fallschirmsinkversuche weder aus 12 km noch aus 13 km Hoehe toedlich gewirkt. Es wurden insgesamt 15 Extremversuche dieser Art angestellt, wobei keine der Vp den Tod erlitt. Es trat schwerste Hoehenkrankheit mit Bewusstlosigkeit auf, jedoch stets voelliche Aktionsfaehigkeit, wenn etwa 7 km Hoehe im Abstieg erreicht war. Die hierbei ausgefuehrten Elektrokardiogramme zeigen wohl waehrend des Versuches gewisse Unregelmassigkeiten, jedoch bis Versuchsende waren die Kurven zur Norm zurueckgekehrt und zeigten auch an den darauffolgenden Tagen keinerlei krankhafte Veraenderungen an. Inwieweit eine Abnuetzung des Organismus

durch sich immer wiederholende Versuche eintritt, laesst sich erst am Schluss der Versuchsreihen feststellen. Die extremen, toedlichen Versuche werden an besonders zugeteilten Vp vorgenommen, da sonst eine derartige Kontrolle, welche fuer die Praxis ausserordentliche Wichtigkeit besitzt, nicht moeglich waere." (1971a-PS, Ankl. Bew. 49, R. 175). (Unterstreichungen eingefuegt).

Somit ist es klar, dass die Versuche mit der Absicht geplant und ausgefuehrt wurden, dass einige davon einen toedlichen Ausgang nehmen sollten. Dieser Bericht umfasst den Zeitabschnitt bis zur ersten April-Woche und es ist darin von Todesfaellen und Leichenoeffnungen die Rede. Dies hatte Romberg ganz offensichtlich im Auge als er von seinem ersten Todesfall und Leichenoeffnung sprach, die er gesehen hatte, obzwar er dazu neigt das Datum auf den spaeten April zu verlegen. (NO-476, oben). Wenn die Versuche damals eingestellt worden waeren, waere vielen Personen das Leben gerettet worden. Die Angeklagten machen geltend, dass zwar im Verlauf der Versuche Personen getoetet worden sein koegen, diese aber nicht Qualen und Schmerzen mit sich brachten. Dem liegt die Theorie zugrunde, dass die Versuchspersonen vor jeglicher Schmerzepfindung das Bewusstsein verloren. Diese hinkende Verteidigung wird vollkommen durch die photographischen Beweisstuecke widerlegt, welche die von den Versuchspersonen erlittenen Qualen deutlich machen (NO-610, Ankl. Bew. 41, R. 158), ebenso wie durch die eigenen Berichte der Angeklagten ueber die Versuche. (NO-402, Ankl. Bew. 66, R. 213). Die Reaktionen einer der Versuchspersonen wurde in solchen Wendungen wie "schwere Hoehenkrankheit, krampfhafter Zuckungen" beschrieben. Bei einem Versuch Rombergs und Raschers an der eigenen Person wurden des letzteren Reaktionen wie folgt beschrieben: "Nach ca. 10 Minuten Aufenthalt in dieser Hoehe begannen Schmerzen auf der ganzen rechten Seite mit einem spastischen Laehmungszustand des rechten Beines, die sich immer mehr steigerten, als ob die ganze rechte Seite Raschers zwischen zwei Pressen zerquetscht wuerde. Zugleich bestanden staerkste Kopfschmerzen, als ob der Schaedel auseinander gesprengt wuerde.

Die Schmerzen steigerten sich immer mehr, sodass schliesslich der Abbruch des Versuches notwendig wurde." Es liegt kein Bericht bei den Akten, wonach in einem ^{Falle} Versuch an einem Haeftling wegen Schmerzen abgebrochen wurde.

Ruff und Romberg stellen sich auf den Standpunkt, dass sie dem Gedanken, Gefangene waehrend eines Versuches zu toeten, aeusserst ablehnend gegenueberstehen wuerden. Sie beharren darauf, dass ihre mit Rascher durchgefuehrten Versuche sich mit dem Problem des Drucksturzes und des Sinkens mit Fallschirm aus grossen Hoehen befassen, wogegen Rascher allein an einem Verharren oder laengeren Aufenthalt in grossen Hoehen arbeitete, und dass es Raschers Versuche waren, bei denen Gefangene getoetet wurden. Hier sehen wir wiederum die kuenstliche Trennung der Versuche in solche krimineller und nichtkrimineller Art, deren Falschheit bereits nachgewiesen wurde. Aber hier wiederum waren die beiden an der eigenen Person durchgefuehrten Versuche, die in den oben angefuehrten, von Ruff, Romberg und Rascher gemeinsam aufgestellten Endbericht aufgenommen wurden, Versuche ueber den laengeren Aufenthalt in grossen Hoehen, eine Angelegenheit, von der sie nun behaupten, dass sie ausschliesslich in Raschers Bereich lag. Der einzige Grund, warum dieser Versuch nicht einen toedlichen Ausgang nahm, lag in der Tatsache, dass er infolge ausserordentlicher Schmerzen rechtzeitig abgebrochen worden war. Ausserdem wird auf Seite 11 des von Ruff, Romberg und Weltz verfassten Endberichtes folgendes gesagt: "Dies verdient besondere Beachtung, weil in diesem Falle eine Versuchsperson in einer Hoehe von 8.3 km (27.230 Fuss), nach 3 Minuten lang anhaltendem staerksten Sauerstoffmangel sich geistig wieder vollkommen erholte, waehrend bei Dauerversuchen in dieser Hoehe nach ungefuehr 3 Minuten schwere Hoehenkrankheit einsetzt." (NO-402, oben; (Unterstreichungen eingefuegt). Hier geht wiederum aus ihrem eigenen Bericht hervor, dass Ruff und Romberg, ebenso wie Rascher, sich mit Aufenthalt in grossen Hoehen befassen.

Versuche, bei denen Gefangene getoetet wurden, sind in Raschers Bericht an Himmler vom 11. Mai 1942 erwaeht. (NO-220, Ankl. Bew. 61, R. 195). Einige Gefangene wurden dadurch getoetet, dass man sie in 12.000 m Hoehe 30 Minuten lang ohne Sauerstoffatmung liess; einer wurde in 20.000 m Hoehe getoetet, als man ihn dort 6 Minuten lang ohne Sauerstoffatmung liess. Diese Gefangenen wurden seziert um festzustellen, ob bei der Sektion unter Wasser in den Blutgefassen des Gehirns und anderer Organe Gasblasen, in Raschers Bericht vom 11. Mai 1942 Luftembolien genannt, vorhanden seien. Einige "juedische rassenschaenderische Berufsverbrecher" wurden aus einem anderen Grunde getoetet:

"Um zu erklaren, ob die unter Ziff.3 geschilderten schweren psychischen und physischen Erscheinungen auf der Bildung von Luftembolien beruhen, wurden einzelne VPn nach einem derartigen Fallschirmsinkversuch nach relativer Erholung, jedoch vor Wiedereintreten des Bewusstseins unter Wasser zum vollstaendigen Exitus gebracht. Die auch hier unter Wasser durchgefuehrte Eroeffnung des Schaedels, bezw. der Brust- und Bauchhoehle, ergab als Befund massenhaft Luftembolien in den Hirn-, Coronar-, Leber-, Darmgefassen etc." (NO-220, oben).

Es sollte beachtet werden, dass diese Morde in Verbindung mit den Fallschirmsinkversuchen, und nicht mit Versuchen betreffs laengerem Aufenthalt in grossen Hoehen begangen wurden und dies stellte gerade das Problem dar, mit dessen Studium sich Ruff und Romberg befassten. Romberg bezeugte, dass er bei dem Tode von drei dieser Gefangenen anwesend war, von denen einer im April und zwei im Mai 1942 erfolgten, und dass er Zeuge bei der Autopsie des einen war, bei der Gasblasen in den Blutgefassen des Gehirns vorhanden waren. Er berichtete ueber diese Todesfaelle an Ruff. (NO- 476, Ankl. Bew. 40, R. 155; Romberg, R. 6903, R. 6926-8). Neff bezeugte, dass Romberg bei faenf Faellen mit toedlichem Ausgang anwesend war (Neff, R. 619, 622) und Romberg hat zugegeben, dass er davon wusste, dass faenf bis zehn weitere Versuchspersonen getoetet wurden als er nicht zugegen war. (NO-476,

Ankl. Bew. 40, R. 155). Neff hat angegeben, dass Romberg an der Mehrzahl der Versuche taetigen Anteil nahm. Er beobachtete die Versuche, machte Notizen und studierte die Elektrokardiogramme und war so in der Lage festzustellen, wenn eine Versuchsperson in der Unterdruckkammer kurz vor dem Tode stand. (Neff, R. 651)!

Es ist unglaublich, dass Dr. Ruff nicht ueber das Auftreten von Blasen in den Blutgefassen des Gehirns unterrichtet wurde, da er derartige Beobachtungen an Menschen, die als Folge eines zu ploetzlichen Drucksturzes starben, ein ganz aussergewoehnliches Vorkommnis sind, wenn auch zu vielen Malen vor 1942 Blasen in den Blutgefassen von Versuchstieren beobachtet worden sind. Es ist unvorstellbar, dass Dr. Ruff oder sonst jemand auf dem Gebiete der Luftmedizin nichts von der Blasen-Theorie als der Ursache der Gelenkschmerzen, des Hustens, der Blindheit oder Laehmungserscheinungen, oder von den Symptomen der Druckfallkrankheit, die bei Aufenthalt in grossen Hoehen auftreten kann, gehoert haette, da diese Theorie doch in der seit 1938 verfuegbaren Literatur und den Lehrbuechern der Luftmedizin wohlbekannt war. Wie haette sonst Rascher Veranlassung gehabt nach den Blasen zu forschen? Er hat entweder waehrend eines Kurses in Luftmedizin von der Theorie erfahren, oder hoerte durch Ruff und Romberg darueber, die weit mehr ueber Luftmedizin als Rascher wussten.

Es ist phantastisch anzunehmen, dass Ruff, Romberg und Rascher nicht die Beobachtung von Luftblasen in den Blutgefassen der ermordeten Gefangenen im Auge hatten, als sie in dem gemeinsamen Endbericht vom 28. Juli 1942 schrieben:

"Bei den schweren geistigen Stoerungen und koerperlichen Ausfaellen (Laehmungen, Blindheit usw.) des posthypoxaemischen Daemmerzustandes ist trotz der verhaeltnissaessig grossen Anzahl der Versuche der eigentliche Grund dieser Stoerungen etwas raetselhaft geblieben. Es schien oft, als ob sich Erscheinungen der Druckfallkrankheit mit den Folgen des schweren Sauerstoffmangels kombinierten." (NO-402, Ankl.

Bew. 66, R. 213),

Seit einiger Zeit hatte eine Theorie bestanden, dass die mit der Drucksturz- oder Druckfallkrankheit zusammenhaengenden Symptome auf die Bildung von Gasblasen (Luftembolien) in den Blutgefassen des Gehirns oder in der Gelenkgegend oder in den Blutgefassen der Lunge zurueckzufuehren seien. Wenn sich die Luftblasen in den Blutgefassen des Gehirns ansammeln, verursachen sie, dieser Annahme nach, eine koerperliche oder geistige Stoerung oder Lachmung. Wenn sich die Gasblasen in den Gelenkgegenden ansammeln, wird angenommen, dass sie in den Gelenkgegenden Schmerzen verursachen. Wenn sich die Blasen in den Blutgefassen der Lunge sammeln, nimmt man an, dass sie Erstickungs- oder Hustenanfalle verursachen. Dies war eine Theorie, die seit 15 oder 20 Jahren bestanden hatte und ein Fachmann auf dem Gebiete der Luftmedizin konnte darueber nicht in Unkenntnis sein. (Ivy, R. 9098-9). Da Rascher, wie in seinem Bericht vom 11. Mai 1942 beschrieben, Blasen beobachtet hatte und da Ruff und Romberg volle Kenntnis von den Todesfaellen hatten, entgingen diese wichtigen Feststellungen Raschers ueber Luftembolien offensichtlich nicht der Aufmerksamkeit Ruffs und Rombergs. Es kann nur der Schluss gezogen werden, dass dieser Befund, der sich aus den beabsichtigten Testungen ergab, die Grundlage des oben zitierten Absatzes aus dem Endbericht bildet. In Anbetracht der Natur der Materie und des vorherigen Wissens von den Beobachtungen bei der Autopsie, im Verlauf der Versuche, koennen die in dem oben zitierten Absatz ausgedruckten Gedanken nicht von den in Raschers Bericht vom 11. Mai enthaltenen getrennt werden. So hat sich der sachverstaendige Zeuge, Dr. A. C. Ivy, geaussert. (Ivy, R. 9151). All dies beweist aufs Neue, dass die Aussagen von Ruff und Romberg, die darauf hinauslaufen, dass sie mit den sogenannten "Rascher-Versuchen" nichts zu tun gehabt haetten, "voellig falsch sind. Obzwar in dem gemeinsamen Bericht vom 28. Juli Todesfaelle nicht ausdruecklich erwachnt sind,

geht aus Dr. Ivys Zeugenaussage klar hervor, dass der Befund in den Todesfaellen die Grundlage fuer einen Teil dieses Berichtes bildet.

Ruff und Romberg moechten das Gericht glauben machen, dass die Versuche laengstens am 20. Mai 1942 beendet und die Druckkammer zu diesem Zeitpunkt aus Dachau entfernt worden war. Da Romberg von den Todesfaellen wusste und darueber im April an Ruff berichtete, bestand sicherlich nicht der geringste Grund, die Druckkammer auch nur einen weiteren Tag in Dachau zu belassen. Sie blieb jedoch nach ihren eigenen Angaben bis zum 20. Mai dort und Romberg sah zwei weitere Faelle von Toetungen. Sie versuchten ihre verbrecherische Beteiligung an diesen spaeteren Morden durch die Angabe zu vertuschen, dass die Druckkammer ohne Befehl des Luftwaffen-sanitaetsinspektors nicht haette verlegt werden koennen.

Sei dem wie es mag, ein derartiger technischer Verstoss, wie die Entfernung der Druckkammer ohne Befehl, ist kaum vergleichbar mit dem Verbrechen der Belassung der Kammer zur Durchfuehrung weiterer Versuche durch einen Mann, von dem sie zugegebenermassen wussten, dass er ein Moerder war. In der Tat, jeder anstaendige Vorgesetzte, der nicht selbst ein Mittaeter an dem Verbrechen war, wie sie es in Wirklichkeit waren, wuerde ohne allen Zweifel Ruff und Romberg, wegen der Belassung der Druckkammer, vor ein Kriegsgericht gestellt haben, von Rascher ganz zu schweigen.

Aber es ist nicht wahr, dass die Unterdruckkammer am 20. Mai 1942 aus Dachau weggebracht wurde, wie sie es uneidlicher Weise angeben. Sie haben dieses Datum einem Schreiben Milchs an Kolff entnommen, das besagt, dass die Kammer anderswo benoetigt wuerde. (343a-PS, Ankl. Bew. 62, R. 200). Es bestand offensichtlich die Absicht, die Kammer zu verlegen, sie wurde aber tatsaechlich nicht weggebracht und dies ist ohne Zweifel auf die vereinten Bemuehungen Ruffs, Rombergs und Raschers zurueckzufuehren. Romberg war bestrebt, sein verbrecherisches Werk mit Rascher im September 1942 fortzusetzen, wie weiter oben ausgefuehrt wurde. Auf jeden Fall genehmigte Milch am 4. Juni 1942 den Verbleib der Druckkammer in Dachau fuer weitere zwei Monate. (NO-261, Ankl. Bew. 63, R. 202). Am 25. Juni wurde dieser Befehl

durch Heckenstaller, den Adjutanten Wolffs, an Rascher weitergegeben und dabei auf einen Brief Raschers vom 5. Juni Bezug genommen. (NO-284, Ankl. Bew. 64, R. 203). Diese Dokumente beweisen ohne Zweifel, dass die Unterdruckkammer bis Juli 1942 in Dachau verblieb.

Die Aussage Neffs beweist nicht nur, dass die Versuche bis Juli 1942 fortgesetzt wurden, sondern auch, dass sich fuer Romberg eine bemerkenswerte Gelegenheit bot, die Versuche ohne jede Schwierigkeit abubrechen. Neff hat angegeben, dass Romberg ihm in den letzten Maitagen mitgeteilt habe, dass die Kammer verlegt werden sollte (ohne Zweifel als Folge des Schreibens von Milch vom 20. Mai, das spaeter widerrufen wurde) und dass er, unter dem Eindruck, dass Romberg nicht fuer eine Fortsetzung der Versuche sei, durch Zerbrechen eines Glas-Barometers einen Sabotageakt an der Kammer ausfuehrte, um sicher zu sein, dass die Kammer wegkam. Anstatt diese Gelegenheit zu einem Abbruch der Versuche durch Wegschaffen der beschadigten Kammer zu ergreifen, eilte Romberg nach Berlin, beschaffte die Ersatzteile und setzte die Unterdruckkammer innerhalb zwei Wochen wieder fuer weitere moerderische Versuche instand. (R. 623-4). Die Kammer wurde nach ihrer Reparatur weitere drei Wochen verwendet und am letzten Tage der Versuche wurden noch fuenf Personen getoetet. (Neff, R. 624). Waehrend die Verteidigung Neff im Kreuzverhoer in Bezug auf die Sabotage an der Kammer angriff (R. 663), gab sie beim Zeugenverhoer Rombergs die Beschadigung der Kammer zu, datierte aber den ganzen Vorfall von Juni auf den Monat Mai zurueck. (Romberg, R. 6905). Dies geschah offensichtlich aus der theoretischen Erwagung heraus, dass dem Gericht vorgemacht werden koenne, dass im Mai nur sehr wenige Versuche haetten durchgefuehrt werden koennen, da sie behauptet, dass die Kammer am 20. Mai verlegt wurde. Jedoch die Dokumente und Neffs Zeugenaussage beweisen eindeutig, dass die Unterdruckkammer bis Juli dort war.

Ueberdies macht es wenig aus, ob die Kammer im Mai oder Juni beschae-
digt wurde. Romberg ergriff jedenfalls nicht die Gelegenheit, die Ver-
suche auf Grund der nicht verfuegbaren Ersatzteile abzubrechen, obzwar
er eine solche Gelegenheit gar nicht brauchte, wenn er wirklich ge-
wuenscht haette, sie nicht weiter fortzusetzen. Er haette nichts weiter
tun brauchen, als die Kammer abtransportieren zu lassen oder selbst
wegzugehen.

Ruffs und Rombergs Schuld steht ohne Zweifel fest, wenn man bedenkt,
dass sie die Gelegenheit, im April 1942 sich nach dem ersten Todesfall
einer Versuchsperson zurueckzuziehen, nicht ergriffen haben. Romberg
hat seine Anwesenheit bei dem Tode dieser ersten Versuchsperson zuge-
geben. (Romberg, R. 6924). Er hat das Elektrokardiogramm zur Zeit
der Versuche studiert (NO-476; Romberg, R. 6927). Er moechte, dass das
Gericht zu dem Schluss komme, dass er ein unschuldiger Zuschauer war,
der das Vorrecht hatte, nichts tun zu muessen. Nach Romberg war dies
eben wieder so ein "SS-Versuch". Aber Romberg gab zu, dass er den Elek-
trokardiograph bediente, und dem Lichtpunkt folgte, der die Herztaetig-
keit anzeigte. Wenn er sah, dass der kritische Punkt erreicht war, will
er Rascher aufmerksam gemacht haben (Romberg, R. 6927), aber dies habe
nichts genutzt, da Rascher den Versuch bis zum Eintritt des Todes
fortsetzte. Diese Behauptung angeblicher Machtlosigkeit, wenn ein Mensch
langsam vor seinen Augen getoetet wurde, ist eine Beloidigung unserer
Intelligenz. Romberg war der aeltere Wissenschaftler und war sich voel-
lig der Tatsache bewusst, dass eine Gefahrenzone erreicht war, da er mit
der bei diesen Versuchen verwendeten Ausruestung gruendlich vertraut
war. Er hat dem Gericht die unmittelbare Naehel des Elektrokardiogramms
zu den Schalthebeln der Kammer beschrieben (Romberg, R. 6929) und es
ist unvorstellbar, zu glauben, dass Romberg nicht in der Lage gewesen
waere, diesen Versuchspersonen das Leben zu retten,

wenn er dies gewollt haette. Die unausweichliche Tatsache ist, dass diese Todesfaelle einen Teil des Planes darstellten und dass Romberg nicht nur nicht den Wunsch hatte, einzuschreiten, sondern vielmehr an der durch Luftembolien hervorgerufenen Todesursache sehr interessiert war.

Wenn man annimmt, dass Romberg ein Gegner dieser toedlichen Versuche war, ist es unmoeglich zu verstehen, warum er nicht geeignete Massnahmen traf, Rascher fuer diesen mit Ueberlegung begangenen Mord zu belangen. Tatsaechlich berichtete Romberg ueber diesen Todesfall sofort an Ruff (Romberg, R. 6932) und auch seitens Ruff erfolgten keine entsprechenden Schritte. Nach einem angeblichen Einspruch gegen diesen ersten Todesfall nahm Romberg an der Sektion des ungluecklichen Opfers teil. Aus dieser Sektion ging die Tatsache einwandfrei hervor, dass Luftembolie die Todesursache bildete. Als er ueber seine Teilnahme an der Sektion befragt wurde, antwortete Romberg mit "Ja, ich beobachtete eine Sektion. Das war meine Pflicht". (Romberg, R. 6924). Romberg sagte aus, dass er zwei weitere Todesfaelle gesehen habe und dass auch diese durch Luftembolien verursacht worden waren. (R. 6925-6).

Ruff und Romberg legten grossen Wert auf den Umstand, dass in dem von Romberg, Ruff und Rascher gemeinsam abgegebenen Bericht vom 28. Juli 1942 keinerlei Todesfaelle erwahnt sind. Dies ist natuerlich eine sehr verstaendliche Unterlassung, beweist jedoch in keiner Weise, dass sie fuer diese Morde nicht verantwortlich sind. Der gemeinsame Bericht vom 28. Juli 1942 ist in der Tat mit Raschers Bericht vom 11. Mai 1942 (NO-220) identisch, mit Ausnahme der besonderen Erwachnung der Todesfaelle. Zum Beispiel Absatz 3 von Raschers Bericht ist eine Zusammenfassung des Teils III-1, Seite 3-18 und des Teils III-2, Seite 18-19, des gemeinsamen Endberichtes. Absatz 4 von Raschers Bericht enthaelt Ergebnisse, die in Teil III-4, Seite 21-22, des gemeinsamen Endberichtes dargestellt sind. Absatz 5 von Raschers Bericht ist identisch mit Teil III-3, Seite 19-21, des gemeinsamen Endberichtes. Auf Absatz 6 von Raschers Bericht, in dem die Pervitin-Versuche

erwähnt sind, beziehen sich die Pervitin Data auf Seite 18 des gemeinsamen Endberichtes. Absatz 7 des Rascher-Berichtes enthaelt die Schlussfolgerungen, die in den gemeinsamen Endbericht einbezogen sind und gibt Einzelheiten ueber die Gasblasen Data, auf die auf Seite 16 bis 18 des gemeinsamen Endberichtes Bezug genommen wird, in welchem jedoch eine Bezugnahme auf den Sektionsbefund der ermordeten Gefangenen weggelassen ist. Diese verschiedenen Stellen wurden durch den Zeugen Ivy miteinander verglichen, der zu dem Schlusse kam, dass sie sich auf denselben Gegenstand beziehen. (Ivy, R. 9097).

Ruff versuchte die Weglassung der Erwähnung von Todesfaellen in dem Endbericht damit zu erklæren, dass diese nicht als Folge ihrer Versuche ueber Rettungsmaesslichkeiten aus grossen Hoehen (d.s. Fallschirm-Sinkversuche), sondern vielmehr bei Raschers eigenen Versuchen vorgekommen sind, mit denen sie selbst nichts zu tun gehabt haetten (d.s. laengerer Aufenthalt in grossen Hoehen). (Ruff, R. 6592). Es ist bereits nachgewiesen worden, dass die grundsætzliche Voraussetzung dieser unwahren Beweisfuhrung voellig falsch ist, naemlich, dass Ruff und Romberg an Hoehendauerversuchen nicht interessiert waren. Die Selbst-Versuche Rombergs und Raschers waren gerade solche Versuche und sie sind in dem Endbericht besonders erwæhnt. Sie schlossen einen Aufenthalt von 30 bis 40 Minuten in Hoehen zwischen 12 und 13.5 (59.400 bis 44.290 Fuss) ein. Aber ebenso falsch ist die Nebenthese. Im Verlaufe der Fallschirmsinkversuche wurden Todesfaelle mit Absicht herbeigefuehrt. Bei diesen Versuchen wurde festgestellt, dass die Versuchspersonen spasmodische und klonische Kraempfe verbunden mit Laehmungen erlitten. Dies wird in Absatz 3 des Rascher-Berichtes vom 11. Mai 1942 ueber die Versuche und ebenso auf Seite 13 bis 18 des Endberichtes berichtet. Rascher gibt in seinem Bericht an:

"Um zu erklären, ob die unter Ziffer 3 geschilderten schweren psychischen und physischen Erscheinungen auf der Bildung von Luftembolien beruhen, wurden einzelne Versuchspersonen nach einem derartigen Fallschirmsinkversuch nach relativer Erholung, jedoch vor Wiedereintreten des Bewusstseins, unter Wasser zum vollständigen Exitus gebracht. Die auch hier unter Wasser durchgeführte Eröffnung des Schädels, bez. der Brust- und Bauchhöhle ergab als Befund massenhaft Luftembolien in den Hirn-, Coronar-, Leber-, Darmgefässen etc." (NO-220, Ankl.Bew. 61, R.195). Unterstreichungen hinzugefügt).

Dies beweist ausserhalb jeden Zweifels, dass in den Fallschirmsinkversuchen von Ruff, Romberg und Rascher Morde verübt wurden. Ruff versuchte den Gerichtshof zu hintergehen, indem er aussagte, dass die Bildung von Luftembolien bei Fallschirmsinkversuchen faktisch unmöglich sei. (R. 6677). Dies wird durch Raschers oben angeführte Erklärung und durch Hinweis auf den bereits oben erwähnten Schlussbericht, der auf dieses gleiche Problem anspielt, offensichtlich widerlegt. Aber diese Lüge wurde auch durch den sachverständigen Zeugen Ivy unzweideutig festgenagelt, der aussagte, dass die Bildung von Luftembolien möglich sei bei Versuchspersonen, die sich in Höhen von ueber 12.000 m (39.400 Fuss) nur 3 Minuten aufhielten, d.h. bei Versuchspersonen, die bei 15.000 m absprangen. Bläschen koennen sich schon bei 30.000 Fuss bilden. (Ivy R. 9102). So ist also die Behauptung, dass sich waehrend der Versuche zur Rettung aus grossen Hoehen keine Todesfaelle ereigneten, vollkommen falsch.

Ausserdem muss beachtet werden, dass, waehrend der gemeinsame Schlussbericht keinen der Todesfaelle beschreibt, er auch nicht leugnet, dass Todesfaelle eintraten. Auf Seite 25 des Originals heisst es: "Anschliessend muss im Hinblick auf die extremen Versuchsbedingungen besonders festgestellt werden, dass bei dieser ganzen Versuchsreihe kein Todesfall und ebenso kein bleibender Sauerstoffmangelschaden eintrat." (NO-402, oben). Die Todesfaelle, die in Raschers oben angeführtem Bericht beschrieben sind, waren nicht durch Sauerstoffmangel verursacht worden, sondern waren wohl

ueberlegte Toetungen zur Untersuchung von Luftembolienbildung.

Aber sogar die Versuche, von denen Ruff, Römberg und Weltz zugeben, dass sie auf ihre Verantwortung geplant und ausgeführt wurden, waren ausserst gefährlich fuer Leben und Gesundheit der Versuchsobjekte. Sowohl Ruff als auch Römberg stimmten darin ueber-
ein, dass 12.000 m die ausserste Grenze fuer die Sicherheit bildeten und dass solche Versuche, wie sie sie jenseits dieser Hoehengrenze ausfuehrten, gefährlich waren. Die Beschreibung der Reaktion der Versuchsobjekte im Schlussbericht beweist, dass die Versuchspersonen an schweren Kraempfen und langen anhaltender Orientierungsunfaehigkeit litten. Der sachverstaendige Zeuge Ivy wies darauf hin, dass die im Schlussbericht von Ruff, Römberg und Weltz beschriebenen Versuche aus folgenden Gruenden ausserst ge-
fährlich waren:

"Ich halte sie fuer gefährlich wegen der langen Zeitspanne, waehrend der die Versuchspersonen bewusstlos waren. Z.B. waren sie ungefaehr 20 Minuten bewusstlos und fuer eine Zeitspanne von 30 - 90 Minuten ohne Orientierungsvermoegen. Das ist eine gefaehrlich lange Zeit, das Gehirn diesem Sauerstoffmangel auszusetzen. Ich gebe zu, dass das Herz dieser Leute, nachdem man das Elektrokardiogramm beobachtete und daran keine Aenderung wahrnahm, durch diesen ausgedehnten Sauerstoffmangel nicht besonders angegriffen wurde. Aber diese Experimente zeigen nicht, oder die Ergebnisse zeigen nicht, dass die Gehirnzellen dabei nicht verletzt wurden. Eine der hoeheren Funktionen des Gehirns ist das Lernen, und wir wissen, dass der Lernprozess gegen Sauerstoffmangel sehr empfindlich ist. Und die einzige Moeglichkeit, Schaeden des Lernmechanismus durch fortgesetzten Sauerstoffmangel zu vermeiden, wuerde gewesen sein, den Intelligenzgrad dieser Leute oder ihr Lernvermoegen vor und nach diesem laengeren Sauerstoffmangel festzustellen." (Ivy, R. 9036).

Dr. Ivy bezeugte, dass die im Schlussbericht beschriebenen Versuche die physiologische Grenze erreicht hatten und dass die Arbeit fuer das Wohlbefinden der Versuchspersonen in einer Zone ausgefuehrt wurde, die sehr gefährlich und gewagt war. Er sagte, er waere nicht einmal geneigt, solche Versuche an sich selbst vorzunehmen, und dass er es vorziehen wuerde, sich auf den Grad der Genauigkeit zu verlassen, der

durch Berechnungen mit den Ergebnissen von Tierversuchen erzielt werden koenne. (Ivy, R.9081; R. 9112; R. 9197)!

Schliesslich muss bemerkt werden, dass die Versuche weder erforderlich noch ein wissenschaftlicher Erfolg waren. Der Ausdruck "Staatsnotwendigkeit" ist von den Angeklagten viel gebraucht worden, als ob das ein Verteidigungsgrund waere. Dies ist voellig unbegrundet, selbst wenn eine militaerische oder sonstige Notwendigkeit vorausgesetzt wird. Es ist anzunehmen, dass jeder Angeklagte dachte, es bestuende irgendeine Notwendigkeit fuer das, was er tat. Das ist kein Verteidigungsgrund. Rascher dachte das gleiche. Es wurde als notwendig angesehen, Hunderttausende von Menschen in Konzentrationslagern einzusperren. Es wurde als notwendig angesehen, Millionen von Juden hinzumorden. Die Politik der Zwangsarbeit war auf Notwendigkeit aufgebaut. Wenn das ein Verteidigungsgrund ist, dann verlieren diese Gerichtsverhandlungen jeglichen Sinn. Andererseits jedoch, wenn bewiesen wird, dass diese Versuche nicht notwendig waren und keinen wissenschaftlichen Wert hatten, dann wird der Schuldige noch mehr schuldig. Das brutale Opfer von Menschenleben brachte keinen Nutzen. Und dies war hier der Fall. Als Hippke, der Chef des Sanitaetswesens der Luftwaffe, Himmler am 8. Oktober 1942 ein Dankschreiben schickte, sagte er folgendes:

"Schlussfolgerungen fuer die Praxis des Fallschirmabsprungs lassen sich allerdings vorlaeufig noch nicht ziehen, da ein sehr wesentlicher Faktor noch nicht mit beruecksichtigt ist, naemlich die Kaelte; sie stellt eine ausserordentliche Mehrbelastung fuer den Koerper und seine ganzen Lebensvorgaenge dar, so dass die Ergebnisse in der Praxis wahrscheinlich erheblich unguenstiger sein werden als in den vorliegenden Versuchen." (NO-289, Ankl.Bew. 72, R.216).

Als der Zeuge Ivy um seine Meinung ueber die Notwendigkeit des auf Seite 13 des Schlussberichts von Ruff, Romberg und Rascher beschriebenen typischen Versuchs befragt wurde, sagte er aus:

"Ich glaube nicht, dass es notwendig war, ein solches Experiment durchzufuehren, um festzustellen, welche Ausruestung Flieger brauchen, die ihr Flugzeug in grossen Hoehen verlassen muessen." (Ivy, R. 9035).

Der Zeuge Ivy erklaerte ferner, dass die Erkenntnis, die durch

diese Versuche an Konzentrationslagerhäftlingen gewonnen worden war, auch durch Tierversuche hätte erlangt werden können, wie durch die Ergebnisse der von Lutz und Wendt ausgeführten Tierversuche gezeigt worden ist, auf die im Schlussbericht hingewiesen wird. Die Unterschiede in den Reaktionen von Menschen und Tieren, wie sie von Lutz und Wendt gemeldet werden, waren nicht hinreichend, um die Ausführung dieser gefährlichen Versuche an Menschen zu rechtfertigen. (Ivy, R. 9036).

B. Kälteversuche (Anklageschrift Abs. 6 (D)).

Für eine ausführliche Beschreibung des Verbrecherischen der Kälteversuche siehe den Schriftsatz der Anklagebehörde gegen den Angeklagten Sievers.

Dem Angeklagten Weltz wird ausser den Höhenversuchen eine besondere Verantwortung und Teilnahme an den Kälteversuchen zur Last gelegt. Während die Angeklagten Ruff und Romberg dieserhalb nicht beschuldigt sind, muss die blosse Tatsache, dass die Kälteversuche anschliessend an die verbrecherischen Höhenversuche, an denen sie teilnahmen, ausgeführt wurden, zusammen mit der Kenntnis, die diese beiden Angeklagten von solchen Versuchen hatten, im Zusammenhang mit der fundamentalen Anklage in Bezug auf ihre Teilnahme an verbrecherischen ärztlichen Versuchen betrachtet werden. Ausserdem kann das volle Ausmass der Schuld von Ruff, Romberg und Weltz nur erfasst werden, indem man die augenfälligen Wechselbeziehungen zwischen diesen beiden Versuchen betrachtet.

Die Kaltwasserversuche begannen am 15. August 1942 und dauerten bis zur ersten Hälfte des Jahres 1943. Die Versuche wurden tatsächlich von Holzlochner, Finke und Rascher ausgeführt, die alle Sanitätsoffiziere der Luftwaffe waren. Holzlochner und Finke arbeiteten mit Rascher bis Dezember 1942 zusammen. Wie Rascher in

einen Bericht ueber seine medizinische Ausbildung sagte:

"Auf Befehl des Reichsfuehrers-SS und des Generaloberstabsarztes Prof. Dr. Hippke "Versuche zur Rettung ausgekuehlter Menschen" (Beginn am 15.8.42); 4 Monate in Zusammenarbeit mit Universitaetsprof. Dr. Holzloehner, Kiel, und Dr. Finke, Universitaet Kiel." (NO-230, Ankl.Bew. 115, R. 356).

Rascher sagte auch:

"Mai 1939 bis heute Militaerdienst bei der Luftwaffe."

Dieser Bericht ist vom 17. Mai 1943 datiert. Deshalb muss man im Auge behalten, dass Rascher waehrend aller Hoehenversuche und im wesentlichen waehrend aller Kaelteversuche im aktiven Dienst bei der Luftwaffe stand und nicht bei der SS. Erst im Mai 1943 trat er bei der Waffen-SS in den aktiven Dienst ein.

Ehe die Hoehenversuche wirklich zu Ende gefuehrt worden waren, wurde der Befehl erteilt, dass der Angeklagte Weltz und sein Untergebener Rascher die Kaelteversuche ausfuehren sollten. Dies kann aus einem Brief von Milch an Karl Wolff vom 20. Mai 1942 ersehen werden. (343-PS, Ankl.Bew. 62, R. 200). Kurz darauf hatte Rascher eine Besprechung mit Hippke, dem Sanitaetsinspektor der Luftwaffe, und die Versuchsgruppe wurde vergroessert und Jarisch, Holzloehner und Singer kamen hinzu. Rascher meldete Himmler diese Befehle am 15. Juni 1942 und uebermittelte Hippkes Bitte, die Versuche in Dachau ausfuehren zu lassen. (NO-283, Ankl.Bew. 82, R. 309). Der Forschungsauftrag wurde vom Referat fuer Luftfahrt-Medizin (2 II B) unter Anthony erteilt, dessen Stellvertreter der Angeklagte Lecker-Freyseng war. (NO-286, Ankl.Bew. 88, R. 248).

Im Kreuzverhoer gab Weltz zu, dass er an den Kaelteversuchen ein bedeutendes Interesse hatte und dass er selbst viel auf diesem Gebiet gearbeitet hatte. (A. 7240).

Weltz behauptete, dass er von den Kaelteversuchen an Haeftlingen in Dachau erst im Sommer 1942 erfuhr, als er gebeten wurde, Sauerstoffuntersuchungen des Blutes der Versuchspersonen zu machen. (R. 7226). Es ist ganz klar, dass Weltz schon im Mai 1942 von diesen Versuchen Kenntnis hatte, da er damals selbst von Milch beauftragt wurde, die Versuche zu ueberwachen. Es scheint auch hoechst wahrscheinlich, dass Weltz' Institut in Muenchen die Geraete fuer die Experimente in Dachau lieferte. Weltz hatte schon Kaltwasserversuche an grossen Tieren unternommen, weshalb die erforderliche Laboreinrichtung vorhanden war. (Weltz, R. 7241). Weltz gab zu, dass Wendt ihm gemeldet hatte, dass ein Gesuch gemacht worden war, um einen Teil seiner Einrichtung nach Dachau zu bringen, dass er aber diese Bitte abgeschlagen hatte. (R. 7242). Er konnte jedoch nicht mit Bestimmtheit erklaeren, dass ein Teil seiner Einrichtung nicht tatsaechlich in Dachau gebraucht worden war. (R. 7243).

Am 26. und 27. Oktober 1942 fand in Nuernberg unter der Schirmherrschaft des Sanitaetsinspektors der Luftwaffe eine Konferenz ueber "Medizinische Probleme der Seenot und Winternot" statt, unter dem Vorsitz Anthony's, dem der Angeklagte Doeker-Freyseng zur Seite stand. Auf dieser Tagung gaben Holzloehner und Rascher einen Bericht ueber die Dachauer Kaelteexperimente. Weltz hielt auch eine Vorlesung ueber seine Kaelteexperimente. Unter den Teilnehmern waren auch die Angeklagten Ruff, Romberg, Schaefer, Doeker-Freyseng und Rose. Aus der kurzen Zusammenfassung seiner Vorlesung geht klar hervor, dass Versuche an lebenden Menschen ausgefuehrt worden waren. (NO-401, Ankl. Bew. 93, R. 309). Raschers Erklaerung in Anschluss an Holzloehners Vortrag zeigte auch, dass Versuche an Konzentrationslagerhaeftlingen vorgenommen worden waren.

Dieser Bericht verursachte eine gewisse Sensation unter den Anwesenden. Es war ganz klar gemacht worden, dass Todesfalle eingetreten waren, (Lutz, R. 272). Vergleiche auch den Schlussbericht ueber die Versuche, der die Todesfalle sehr ausfuehrlich beschreibt. (NO-428, Ankl.Bew. 91, R. 252).

Die Tatsache allein, dass die Kaelteversuche von Offizieren der Luftwaffe ausgefuehrt wurden und die volle Unterstuetzung der letzteren fanden, beweist schliesslich, dass die Versuche von Woltz, Ruff und Romberg u.a., sich selbst von den sogenannten "Rascher-Verbrechen" zu distanzieren, nichts anderes sind als meineidige Anstrengungen, ihrer klaren strafgesetzlichen Verantwortung zu entgehen. Nicht nur Ruff, Romberg und Woltz hatten voll und ganz Kenntnis, dass im Vorlauf der Hoehenversuche Verbrechen vorgekommen waren, sondern auch solche hohen Sanitaetsoffiziere der Luftwaffe wie Hippke. Dennoch wurde befohlen, dass Rascher, zusammen mit anderen Aerzten der Luftwaffe, einschliesslich des Angeklagten Woltz, die Kaelteversuche ausfuehren sollte. Rascher, weit davon entfernt, von der Luftwaffe vors Kriegsgericht gestellt zu werden, behielt vielmehr seinen Rang und setzte seine moerderische Arbeit in Zusammenarbeit mit anderen Aerzten der Luftwaffe fort. Es gab nicht nur keine "Distanzierung" von Rascher und am allerwenigsten seitens Ruff, Romberg und Woltz, sondern seine Arbeit wurde fortlaufend durch die Luftwaffe unterstuetzt. Am 19. Februar 1943 sagte Hippke Himmler "fuer die grosse Hilfe, die die Zusammenarbeit mit der SS bei der Durchfuehrung der Untersuchungen fuer uns bedeutet hat, meinen ergebensten Dank." (NO-268, Ankl.Bew. 106, R. 346). In einer Besprechung mit Rascher am 12. Maerz 1943 im Zusammenhang mit Raschers vorgesehener Versetzung zur Waffen-SS bat Hippke ihn ausdruuecklich, beim Sanitaetsdienst der Luftwaffe zu bleiben. Er sagte, selbst wenn Rascher versetzt wuerde, wuerde er weiter

seine volle Unterstuetzung geniessen und fuegte hinzu:

"Ich wuensche, dass wir dann auch spaeter weiterhin zusammenarbeiten koennen. Zum Beispiel wuerde ich es sehr begruessen, wenn Sie mit Romberg zusammen die Rettung aus groessten Hoeehen weiter durchfuehren wuerden, und zwar noch hoeher gehen wuerden als 21.000 m. Es muesste fuer diesen Fall irgendwie ein Zweistufenagregat fuer den Unterdruckwagen beschafft werden. Des weiteren waere es mein Wunsch, wenn Sie an Menschenversuchen die Hoeehenversuche mit Kaelte kombinieren wuerden." (NO-270, Ankl. Bew. 110, R. 351).

Es ist schon darauf hingewiesen worden, wie Romberg zusammen mit Rascher schon im September 1942 (siehe oben) Milch den gleichen Vorschlag gemacht hatte. Es ist offensichtlich unmoeglich, zu irgendeinem begruendeten Urteil zu gelangen, dass Ruff, Romberg und Wetz nicht fuer alle die Verbrechen verantwortlich sind, die im Verlauf der Hoeehenversuche veruebt wurden. Die unausweichliche Folgerung davon ist auch die Verantwortung fuer die waehrend der Kaelteversuche veruebten Verbrechen. Denn diese Versuche haetten niemals ohne die volle Unterstuetzung des Schnitzdienstes der Luftwaffe ausgefuehrt werden koennen und das zu einer Zeit, als die vielfachen Hoeehenmorde allen Beteiligten wohl bekannt waren.

III. Schluss

Die Anklagebehoerde unterstellt, dass das Beweismaterial ergibt, dass Ruff, Romberg und Wetz Haupttaeter, Teilnehmer, Anstifter, Vorschubleistende waren, ihre Zustimmung gaben und in Verbindung standen mit Plaenen und Unternehmen, die die Durchfuehrung medizinischer Versuche ohne Zustimmung der Betroffenen zum Gegenstand hatten, und Mitglieder einer Organisation oder Gruppe waren, die in Verbindung stand mit diesen Versuchen, in deren Verlauf Morde, Brutalitaeten, Grausamkeiten, Folterungen, Greuelthaten und andere unmenschliche Handlungen begangen wurden und dass ihre Schuld im Sinne der Punkte I, II und III der Anklageschrift erwiesen ist.

Ich, Fred Lax X 046 207 bestaetige hiermit, dass ich
durchaus vertraut mit der englischen und deutschen Sprache
bin und dass das Vorstehende eine wahrheitsgemaesse und
richtige Uebersetzung des zusammenfassenden Schriftsatzes
der Vereinigten Staaten von Amerika gegen Siegfried Ruff,
Hans Wolfgang Romberg, Georg August Weltz, darstellt.

1 August 1947

Fred Lax
X 046 207

MILITABERGERICHTSHOF NR. I

FALL Nr. 1

ZUSAMMENFASSENDE SCHLUSSBERICHT
DER VEREINIGTEN STAATEN VON AMERIKA

- gegen -

OSKAR SCHROEDER

Nuernberg,
16. Juni 1947

James M. McHaney
Alexander G. Hardy
Arnost Horlik-Hochwald
Esther Jane Johnson

Fuer:

Telford Taylor
Brigadier General, U.S.A.
Chief of Counsel for War Crimes



EINFUEHRUNG

Unter Punkt I der Anklageschrift wird der Angeklagte Schroeder im wesentlichen beschuldigt, sich mit anderen Personen im Verfolge eines gemeinsamen Vorhabens zu einer Verschwörung und Uebereinkunft zusammengefunden zu haben, um medizinische Experimente an Menschen ohne deren Zustimmung vorzunehmen; unter Punkt II und III (Kriegsverbrechen und Verbrechen gegen die Menschlichkeit), dass er Haupttaeter, Teilnehmer, Anstifter, als Beguenstigter gehandelt, seine Zustimmung gegeben und mit Plaenen und Unternehmen in Verbindung gestanden hat, die die Durchfuehrung medizinischer Experimente an lebenden Menschen ohne Zustimmung der Betreffenden zum Gegenstand hatten.

Dem Angeklagten Schroeder wurde besondere Verantwortlichkeit fuer und die Teilnahme an Hoehen-, Kaelte-, Epidemischer-Gelbsucht-, Fleckfieber- und anderen Impfstoff-Versuchen und den Meerwasserversuchen zur Last gelegt. Um die Sachlage zu vereinfachen, zieht die Anklagebehoerde die Beschuldigung seiner Teilnahme an Sulfonamidversuchen zurueck. Aus der Beweiserhebung ging auch hervor, dass Schroeder mit den im Konzentrationslager Natzweiler vorgenommenen Gasexperimenten in Verbindung stand.

I. Stellung und Verantwortung

Als Chef des Luftwaffen-Sanitaetsdienstes hatte der Angeklagte Schroeder eine der wichtigsten Stellungen in der deutschen Aerztehierarchie. Er schlug eine militaer-medizinische Laufbahn ein und stieg in seinem Beruf zur hoechsten Stellung auf.

Im ersten Weltkrieg diente Schroeder als Sanitaetsoffizier bei der Infanterie. In der Zeit vor 1931 war er als Sanitaetsoffizier einer Reihe von militaerischen Einheiten zugeteilt. Am 1. Januar 1931 wurde er als Referent fuer Lazarettangelegenheiten und Heilmittel mit dem Rang eines Oberstabsarztes zur Heeressanitaetsinspektion versetzt.

Im Jahre 1935 wurde Schroeder Stabschef von Generalarzt Hippke in der neu errichteten Sanitaetsabteilung des Reichsluftfahrtministeriums. Er behielt diese Stellung bei, nachdem Hippke zum Inspekteur des Luftwaffen-Sanitaetswesens im Jahre 1937 ernannt wurde. Im Februar 1940 wurde Schroeder zum Flottenarzt der Luftflotte II mit dem Rang eines Generalstabsarztes ernannt. Am 1. Januar 1944 trat er an Hippkes Stelle als Chef des Sanitaetswesens der Luftwaffe. Gleichzeitig wurde er zum Generaloberstabsarzt befoerdert, dem hoechsten Rang im Sanitaetsdienst. (NO-666, Ankl. Bew. 14, R. 106; NO-449, Ankl. Bew. 130, R. 471).

Als Chef des Sanitaetswesens der Luftwaffe waren alle Sanitaetsoffiziere der Luftwaffe direkt oder indirekt Schroeder unterstellt. Seine Stellung und Verantwortlichkeit sind klar und eindeutig. (Uebersichtskarte des Luftwaffensanitaetsdienstes, NO-419, Ankl. Bew. 13, R. 105).

Es ist nicht Aufgabe der Anklagebehoerde, darzutun, dass Schroeder mit allen Einzelheiten aller dieser Versuche vertraut war. Der Nachweis genuegt, dass er Kenntnis hatte oder haben musste von der systematischen Verwendung menschlicher Versuchspersonen fuer medizinische Versuche ohne ihre Zustimmung durch Stellen, ueber die er ein betraechtliches Mass von Machtbefugnis und Autoritaet ausuebte. Er hatte die Pflicht, seine Untergebenen zu kontrollieren. (Siehe Yamashita, 66 S. Ct. 340, 347 1946). Dies und mehr wurde von der Anklagebehoerde bewiesen.

II. Persoenliche Teilnahme an verbrecherischen Versuchen

A. Fleckfieberversuche in Buchenwald (Anklageschrift, Ziffer 6 (J)).

Der verbrecherische Charakter der im Konzentrationslager Buchenwald durchgefuehrten Fleckfieberversuche wurde ausfuehrlich im Schriftsatz der Anklagebehoerde gegen Drugowsky beschrieben und braucht hier nicht wiederholt zu werden. Die Beschuldigung, die gegen den Angeklagten Schroeder im Zusammenhang damit erhoben wird, graendet sich auf die Beteiligung seines Untergebenen Rose an diesen Versuchen nach dem 1. Januar 1944, dem Tage, an dem Schroeder Chef des Luftwaffensanitaetsdienstes wurde. Schroeder ist fuer diese verbrecherischen Handlungen Roses verantwortlich. (Siehe Yamashita oben).

Der Eintrag im Ding'schen Tagebuch vom 8. Maerz 1944 befasst sich mit den Versuchsreihen VIII, die von dem Angeklagten Rose vorgeschlagen worden waren. 20 Insassen wurden mit dem Ipsen-Impfstoff von Kopenhagen geimpft und danach wurde ihnen mit Fleckfieber infiziertes Blut eingespritzt, das von "Durchgangspersonen" herruehrte. Zehn Haeftlinge wurden als Kontrollpersonen benuetzt und ohne vorhergehende Impfung infiziert. Der Eintrag am 13. Juni 1944 beweist, dass sechs Versuchspersonen an der Folge dieser Versuche starben, von denen drei geimpft worden waren und drei Kontrollpersonen waren.

Waehrend Rose ableugnete, dass er dem Kopenhagener Ipsen-Impfstoff an Drugowsky oder Ding zwecks Erprobung in Buchenwald gesandt hatte,

(R. 6224), ging aus seinem Brief an Krugowsky, der das Datum 2. Dezember 1943 traegt, das Gegenteil hervor. (NO-1186, Ankl. Bew. 492, R. 6463). In diesem Brief ersuchte Rose Krugowsky ausdruecklich, den Ipsen-Impfstoff in "der Versuchsanordnung Dings in Buchenwald" auszuprobieren. Der Brief wurde spaeter von Krugowsky an Ding weitergeleitet, dessen Unterschrift sich am unteren Ende des Briefes befindet. Dieses Dokument bestaetigt den Eintrag in dem Ding'schen Tagebuch und stellt der peinlichen Genauigkeit der Zeugenaussage des Belastungszeugen Kogon vor diesem Gerichtshof ein gutes Zeugnis aus. Nachdem dieser Brief Rose vorgelegt worden war, gab er zu, dass er ihn unterzeichnet habe und Krugowsky gebeten habe, den Impfstoff in Buchenwald ausprobieren zu lassen. (R. 6464-5).

Dieses moerderische Experiment wurde zu einer Zeit durchgefuehrt, als Schroeder Roses Vorgesetzter war und die volle Verantwortlichkeit fuer seine Taetigkeit trug. Die Tatsache, dass die Anregung, die Experimente vornehmen zu lassen, 29 Tage vor dem Zeitpunkt gemacht wurde, an dem Schroeder den Oberbefehl ueber den Luftwaffen-Sanitaetsdienst uebernahm, kann ihm in keiner Weise zur Entschuldigung dienen. Die Vorbereitungen fuer die Experimente wurden getroffen und tatsaechlich ausgefuehrt, nachdem Schroeder sein Amt angetreten hatte und er traegt deshalb die Verantwortlichkeit fuer die Morde und Quaelereien, die die Folge davon waren.

B. Fleckfieber und andere Impfstoffexperimente im Konzentrationslager Natzweiler. (Anklageschrift, Ziffer 6 (J)).

Stabsarzt

Die von/Professor Eugene Haagen, Beratender Hygieniker der Luftflotte Reich, im Konzentrationslager Schirmeck und Natzweiler durchgefuehrten Fleckfieberexperimente sind eingehendst im Schriftsatz der Anklagebehoerde gegen Rose beschrieben. Diese Materie wird hier nicht wiederholt und die beiden Schriftsatze muessen zusammen betrachtet werden, um das Gesamtbild zu erhalten. Das Auftreten Haagens als Entlastungszeugen macht es notwendig, seine Aussage ueber diese Versuche zu wuerdigen.

Haagen sagte aus, dass der Angeklagte Rose als Berater-
der Hygieniker des Leiters des Sanitätswesens der Luftwaffe
ihn im Sommer 1943 dazu bewogen habe, sich als Beratender Hy-
gieniker der Luftflotte Reich reaktivieren zu lassen. Haagen
übernahm auch einen Auftrag der Luftwaffe zur Fleckfieberfor-
schung und führte im Zuge dieses Auftrages und auf Grund sei-
ner Stellung in der Luftwaffe gewisse Fleckfieber-Experimente
durch: (R. 9564-5).

Haagen erklärte, dass ihm Stabsarzt Graefe von der Luft-
waffe im Jahre 1942 im Hygienischen Institut der Universität
Strassburg beigegeben wurde, und dass Graefe als sein Assistent
tätig war. Graefe war militärisch dem Luftgaurzt 7, aber
technisch Haagen unterstellt. (R. 9582). Haagen war militä-
risch ebenfalls dem Luftgaurzt 7 unterstellt. (R. 9563).

Haagen hatte einen Rattenfleckfieberimpfstoff entwickelt,
der einen abgeschwächten virulenten (lebenden) Virus ent-
hielt. (R. 9596/7). Haagen sagte aus, er habe mit diesem
Impfstoff an 28 Häftlingen des Konzentrationslagers Schir-
moek, einem Aussenlager von Natzweiler, Versuche anstellt,
um dessen Verträglichkeit festzustellen. Acht Häftlinge
wurden mit 0,5 ccm dieses virulenten Impfstoffes geimpft,
zehn mit 0,5 ccm und zehn mit einem avirulenten Impfstoff
plus 0,5 ccm des virulenten Impfstoffes. Drei weitere Häft-
linge wurden zu Vergleichszwecken mit einem avirulenten Impf-
stoff geimpft. Er sagte aus, dass die Impfungen keine ernsten
Reaktionen zeitigt hatten (R. 9606). Nach Haagens Aussage
wurden alle diese Impfungen im Mai 1943 vorgenommen und es
hatten nach diesem Zeitpunkt keine weiteren Impfungen statt-
gefunden (R. 9636). Im Herbst 1943 vorlegte Haagen seine
Tätigkeit nach Natzweiler, da er angeblich der Ansicht war,
dass eine Fleckfieberepidemie dort wahrscheinlicher sei als
in Schirmoek (R. 9603). Er forderte durch Hirt 100 Konzen-
trationslager-Häftlinge fuer die Versuche nach Natzweiler an.

Diese Haeftlinge wurden im November 1943 von Auschwitz nach Natzweiler verbracht; achtzehn davon starben auf der Reise. Die uebrigen erachtete Haagen als fuer seine Zwecke ungeeignet und forderte weitere hundert an, die ihm im Laufe des Dezember 1943 zur Verfuegung gestellt wurden. Er sagte aus, dass vierzig davon nacheinander zwei Impfungen durch Injektion unterzogen wurden, um Immunitaet zu erzeugen, eine dritte Impfung sei mittels Skarifikation erfolgt, um die Immunitaet nachzuprueren. Zu Vergleichszwecken erhielt eine zweite Gruppe von vierzig Haeftlingen, die als "Kontrollpersonen" bezeichnet wurden, nur die dritte Impfung durch Skarifikation. Bei all diesen angeblichen Impfungen wurde ein und derselbe Impfstoff verwendet; es war ein neuer Impfstoff, der einen abgeschwaecht virulenten Virus rickettsia prowazeki (Laueusefleckfieber) enthielt. Zu den an beiden Versuchsgruppen vorgenommenen Impfungen durch Skarifikation wurde weniger Impfstoff verwendet als zu den beiden ersten Impfungen durch Injektion, denen die immunisierte Gruppe unterworfen wurde. Bei der ersten Gruppe rief der injizier- te Impfstoff die von Haagen als normal bezeichnete Impf-Reak- tion hervor. Im gressen und ganzen erfolgte die gleiche Reak- tion bei der "Kontrollgruppe", welche lediglich die dritte Impfung durch Hautritzung erhielt. Die Reaktion war nicht hef- tiger als bei denen, die die Einspritzimpfung erhalten hatten (R 9615-7).

Haagen gab zu, dass die von ihm sowohl in Schirmeck als auch in Natzweiler verwendeten Versuchspersonen den verschie- densten Nation alitaeten angeherten; es waren Zigeuner und Polen darunter (R 9607). Er sagte ferner aus, dass diese Haeft- linge sich nicht freiwillig gemeldet haetten, denn er habe, wie er sagte, lediglich Schutzimpfungen vorgenommen (R 9541-2).

Haagen behauptete, dass er nur deshalb diese Impfungen in Schirmeck und Natzweiler vorgenommen habe, weil Kramer, der Lagerkommandant von Natzweiler, ihn darum ersucht haette. Die Moeglichkeit des Ausbruchs einer Fleckfieber-Epidemie Mitte

1943 hatte ihn und Kramer beunruhigt; er erklart jedoch, dass tatsachlich vor Maerz 1944 kein Fall von Flockfieber-erkrankung aufgetreten sei. (R 9594-5). Er sei nur nach Schirmeck gegangen, weil er und Kramer den Ausbruch einer Epidemie befuerchteten (R 9600).

Haagen's verstehende Aussage erscheint an sich sowohl auch angesichts der Dokumente, die die Anklagevertretung vorlogte, und die Haagen bei seiner Aussage zur Verfuegung standen, vollkommen unglaubwuerdig. Es ist zunaechst vollkommen laecherlich zu glauben, dass er, wie er behauptete, nur deshalb nach Schirmeck und Natzweiler ging, weil er den Ausbruch einer Epidemie befuerchtete. Es ist laecherlich anzunehmen, dass ein Konzentrationslager-Kommandant auf eigene Faust aeztliche Hilfe bei Aerzten aus den um das Konzentrationslager herumliegenden Staedten suchte. Das WVHA, dem alle Konzentrationslager unterstanden, hatte ein sehr grosszuegig angelegtes Sanitaetswesen, und es ist undenkbar, dass ein Konzentrationslagerfuehrer die Hilfe eines Aussenseiters in Anspruch genommen hatte. Zweitens ist es laecherlich anzunehmen, dass Haagen aus lauter Herzensguete und Angst, dass eine Epidemie sich ueber den Lagerbezirk hinaus verbreiten koennte, seinen kostbaren Flockfieberimpfstoff dazu verwenden wuerde, ^{armen} die bedauernswerten Konzentrationslager-Haeftlinge schutzzuimpfen. Haagen hat selbst ausgesagt, dass er sehr wenig Flockfieberimpfstoff besass. (R 9613). Es ist im Laufe dieses Prozesses wiederholt bezuagt worden, dass Flockfieberimpfstoff in Deutschland waehrend des Krieges bedenklich knapp war, und dass die vorhandenen Mengen nicht einmal dazu ausreichten, um Aerzte, Pfleger und anderes besonders gefaehrdetes Personal zu impfen. Dass man diesen Impfstoff zur Schutzimpfung von Konzentrationslager-Haeftlingen verwendet hat, ist undenkbar. Drittens ist es laecherlich anzunehmen, dass ein Wissenschaftler jemals hatte auf den Gedanken kommen koennen, dass die Impfung von 28 Haeftlingen in Schirmeck und 80 in Natzweiler irgendeinen Einfluss auf die Moeglichkeit einer

Fleckfieberpandemie haben konnte. Aus seinem eigenen Brief vom 27. Juni 1944 an Hirt ist klar ersichtlich, dass Haagen bezueglich seiner wirklichen Taetigkeit in Natzweiler waehrend seiner Fleckfieberexperimente einen Meineid geleistet hat. In einem Brief vom 9. Mai 1944 an Hirt bat Haagen um eine weitere Zuteilung von 200 Personen fuer seine Experimente (NO-123, Anklagebeweisstueck 303, R. 1396). Im Anschluss an diese Anforderung sagte er in seinem Brief vom 27. Juni 1944, dass bei spaeteren Impfungen mit virulentem Fleckfieber, welche zur Feststellung der Wirkung des Schutzimpfstoffes durchgefuehrt werden sollten, mit Krankheitsfaellen gerechnet werden musse, besonders in der Kontrollgruppe, welche den Schutzimpfstoff nicht erhalten hat. Diese Nachimpfungen seien wuensenswert, um die Wirkung der Schutzimpfstoffe unzweifelhaft festzustellen. Diesmal seien 150 Personen fuer die Schutzimpfung und 50 Personen fuer die Kontrollimpfung vorgesehen. (NO.-127, Anklagebeweisstueck 306, R.1401).

Man beachte besonders, dass in dem oben erwachten Brief Haagen Hirt darauf hinwies, dass Erkrankungen in der Kontrollgruppe, die nicht mit dem Schutzimpfstoff geimpft worden war, zu erwarten seien. Haagen sagte aus, dass diese zusaezliche Gruppe von 200 Haeftlingen von ihm nur zu Impfzwecken beantragt worden sei, genau so wie im Dezember 1943 und Januar 1944 die 80 Versuchspersonen. Er fuegte hinzu, dass er im Mai genuegend Impfstoff fuer weitere 200 Personen zur Verfuegung hatte und dass er lediglich den Schutz im Lager zu erhoehen versuchte. (R.9613). Die Unwahrheit der Aussage Haagens ist aus der Erklaerung in dem Brief, dass Erkrankungen in der Kontrollgruppe zu erwarten seien, klar ersichtlich. Er hatte vorher ausgesagt, dass ueberhaupt kein Grund bestehe mit ernstesten Reaktionen auf die Impfungen durch Skarifikation bei der Kontrollgruppe zu rechnen als auf die injizierten Impfungen bei der immunisierten Gruppe (R.9618). Vielmehr habe man allen Grund gehabt zu erwarten, dass der der immunisierten Gruppe injizierte Impfstoff

eine heftigere Reaktion zur Folge haben wurde, da mehr Impfstoff durch Einspritzung als durch Skarifikation verabreicht wurde. Haagen verwandte eine viel grossere Impfstoffmenge zu den ersten zwei Einspritzungen bei der immunisierten Gruppe als zu der Impfung durch Hautritzung bei der immunisierten sowohl als auch bei der Kontrollgruppe. Waehrend der ganzen Zeit wurde ein und derselbe Impfstoff verwendet. (R. 9710). Die Impfmethode, ganz gleich ob durch Einspritzung oder Skarifikation, hatte keinen Einfluss auf die Reaktion des Impfstoffs. Haagen sagte ausdruoecklich aus:

"Wenn wir durch Skarifikation impfen, dann koennen wir erwarten, dass der Erfolg der Schutzimpfung durch Skarifikation derselbe ist, als wenn wir subkutan oder intramuskulaer einspritzen."

Haagen war nicht imstande, das, was er in seinem Brief an Hirt vom 27. Juni 1944 schrieb, naemlich, "dass mit Erkrankungen, besonders in der Kontrollgruppe, gerechnet werden muesse" mit seiner Aussage, dass es keinen Unterschied zwischen der immunisierten und Kontrollgruppe in Bezug auf die Reaktion auf den Impfstoff gaebe, in Einklang zu bringen. Ja, man kann seinen Brief nur dahingehend auslegen, dass er anstatt die Impfung der immunisierten bzw. Kontrollgruppe durch Hautritzung vorzunehmen, er sie tatsaechlich mit Flockfieber infizierte. Haagen wusste, dass die nicht immunisierten Kontrollversuchspersonen an Flockfieber erkrankten wurden. Auch hatte Haagen keine Erklaerung fuer den Brief von Kahnt, Schreodors Stabschef, vom 29. August 1944, in welchem er gefragt wurde,

"ob anzunehmen ist, dass die zur Zeit in Natzweiler herrschende Flockfieber-Epidemie mit den Untersuchungen ueber einen Impfstoff in Zusammenhang stehen."

(NO-131, Anklagebeweisstueck 309 , R. 1404). Er sagte aus, dass er seine Schutzimpfungen an den 80 Versuchspersonen im Laufe des Januar 1944 abgeschlossen hatte, dass alle seine serologischen Untersuchungen schon im Februar 1944 beendet gewesen und dass die Versuchspersonen aus der Isolierung entlassen worden seien. Haagen habe spaetestens im Mai oder Juni 1944 einen Bericht an die Luftwaffe gesandt, in dem er sagte,

dass der Impfstoff ein voller Erfolg gewesen sei. (R. 9627-9). Kahnt und Rose hatten gar keine Veranlassung, eine solche Anfrage an Haagen zu richten, nachdem er schon lange vorher, wie er aussagte, seine Experimente ^{Seite 9 des Originals} abgeschlossen und mindestens zwei Monate vor der Anfrage einen Erfolgsbericht an die Luftwaffe gesandt hatte. Es ist ganz unmöglich, dass die Impfstoffversuche, die bei den geimpften Personen kein Fleckfieber hervorriefen, es bei anderen Personen hervorrufen konnten, wie es Rose bei seinem Verhoer hinstellte. Man beachte ausserdem, dass aus Kahnts Brief klar hervorgeht, dass nach seiner Meinung Haagens Impfstoffforschung in Natzweiler und die Epidemie zeitlich zusammenfielen. Haagen sagte aus, dass er dies nicht verstehen koenne. (R. 9603). Haagen konnte sich nur schwer erklaren, warum er in Beantwortung der Anfrage Kahnts in seinem Brief vom 19. September 1944 nicht erwahnte, dass er seit Januar 1944 in Natzweiler keine Impfungen oder Versuche durchgefuehrt habe und dass seine Impfungen keine Erkrankungen bei den Versuchspersonen hervorgerufen haetten, ganz zu schweigen von einer Fleckfieber-Epidemie. Haagen sagte in seinem Brief nur: "Wiedurch wird mitgeteilt, dass ein Zusammenhang zwischen den in Natzweiler herrschenden Fleckfiebererkrankungen und den Untersuchungen ueber den zu pruefenden Fleckfieber Impfstoff nicht bestanden hat." (NO-132, Anklagebeweisstueck 310, R. 2408, Unterstreichungen eingefuegt). Tatsaechlich berichtete Haagen selbst in seiner Antwort, dass der Impfstoff noch immer ausprobiert wurde, im Gegensatz zu seiner Aussage vor diesem Gerichtshof.

Haagen versuchte den Gerichtshof davon zu ueberzeugen, dass er keine lebende Fleckfieberviruskultur besessen habe, welche die Krankheit in menschlichen Lebewesen haette hervorrufen koennen, und dass er keinen schweren Fall von Fleckfieber bei Menschen haette verursachen koennen, selbst wenn er dies gewollt haette. (R. 9608, 9612). Im genau gleichen Atemzuge sagte er aus, dass eine betraechtliche Infektionsgefahr bei der Arbeit im Laboratorium bestanden habe und dass er seinen Assistenten eine "Gefahrenzulage" gewahrt habe. (R. 9608).

Haagen sagte aus, dass er nach Januar 1944 keine Schutzimpfungen vorgenommen habe. Während seines Verhoers wiederholte er dies immer wieder (h. 9614-5). Nach dem Grunde gefragt, weshalb er nicht während der Fleckfieber-Epidemie in

- Seite 10 des Originals -

Natzweiler im Fruhling und Sommer 1944 geimpft haette, was eine Gelegenheit bot, die ansteckungsverhindernde Wirkung seines Impfstoffes unter natuerlichen Bedingungen zu erproben, gab er die lahme Antwort, er habe so viele militaerische Dienstreisen zu machen gehabt, dass er keine Zeit gehabt habe (A. 9614). Obgleich er genugend Impfstoff hatte, um seine Anforderung von 200 zusaetzlichen Versuchsoeffern im Mai 1944 zu rechtfertigen, bestand nach seiner eigenen Aussage seine einzige Bemuehung bei der Fleckfieber-Epidemie darin, ihnen eine Entwesungsanlage zu schicken (A. 9614). Es ist gelinde gesagt nicht leicht verstaendlich, weshalb nicht auch ein anderer Arzt oder einer von Haagens Assistenten die Impfungen haette vornehmen koennen, die zum Schutze des Lagers vornehmen zu lassen, Haagen, wie er das Gericht glauben machen will, so eifrig besorgt war.

Alle diese obigen Widersprueche und Verfaelschungen treten sowohl durch Haagens Aussage wie auch durch die Dokumente zu Tage, die er vor seinem Erscheinen vor Gericht so sorgfaeltig studiert hat. Die ihm waehrend des Kreuzverhoers vorgelegten Dokumente beweisen, dass seine Aussage von anfang bis Ende uneidig war. Haagen hat wiederholt ausgesagt, dass er nach dem Mai 1943 in Schirmeck keine Impfungen ausgefuehrt haette. Er hat erkluert, dass er in Schirmeck nur eine einzige Impfung ausgefuehrt habe, aber keine Reihen-Impfungen, um die "ansteckungsverhindernde Immunitaet" festzustellen, weil er damals "in dieser wissenschaftlichen Erkennung noch nicht so weit war." (A. 9636). Im Zusammenhang mit dem Ipsen-Impfstoff, ueber welchen Rose mit ihm korrespondiert hatte, leugnete er insbesondere, dass er jemals Rose vorgeschlagen habe, damit Versuche auszufuehren. Haagens Brief an Rose vom 4. Oktober 1943 widerlegt ihn ganz klar in diesen beiden bedeutsamen Punkten (NO- 2874, anklagebeweisstueck Nr. 520, h. 9651). Er erkluerte in seinem Brief, dass

"Die ersten Erfolge der Impfung am Menschen habe ich Ihnen bereits zahlenmaessig mitgeteilt. Der Serumtitel liegt ja ganz erheblich hoeher, auch nach einmaliger Impfung im Vergleich zu dreimaligen Impfungen mit

Seite 11 den abgetesteten Impfstoffen. Leider ist es mir nicht
* möglich gewesen, bisher noch Infektionsversuche an den
den Originalimpften vorzunehmen; ich hatte mich an das Ahnenerbe
naß der SS gewandt, um von dort geeignete Impflinge zu be-
kommen, bin aber noch ohne Nachricht geblieben. Wir neh-
men jetzt noch eine weitere Impfung an Menschen vor; ich
werde Ihnen dann ueber den Ausfall berichten. Ich glau-
be, dass wir dann soweit sind, zunaechst auch ohne Infek-
tionsversuche unsern neuen Impfstoff zur Einfuehrung vor-
schlagen zu koennen." (Unterstreichungen hinzugefuegt.)

Man beachte zunaechst, dass dieser Brief beweist, dass Haagen
entgegen seiner Aussage nach dem Mai 1943 in Schirmeck Impfun-
gen durchfuehrte. Er erklaerte darin, "wir nehmen jetzt noch
eine weitere Impfung an Menschen vor." Ferner ist seine Behaup-
tung, dass der in spaeteren Briefen gebrachte Ausdruck "nach-
folgende Infektion" nur sein Verfahren der Mehrfach-Impfung
bezeichnet, voellig w/derlegt. Haagen sagte selbst aus, dass
er keine Mehrfach-Impfungen in Schirmeck ausgefuehrt habe,
weil seine Kenntnisse nicht so weit vorgeschritten gewesen
seien. Es ist daher klar, dass der von ihm in obigem Schrei-
ben gebrauchte Ausdruck "Infektionsversuche" eine kuenstliche
Infektion mit Fleckfieber bezeichnete. Es ist also eine Tat-
sache, dass Haagen in Bezug auf beide Punkte einen Meinoid
geleistet hat. Er hatte in Schirmeck Mehrfachversuche mit
seinem neuen Impfstoff ausgefuehrt. Dies geht ganz klar aus
dem oben angefuehrten Brief hervor, denn er sagt, dass er
damals gerade weitere Impfungen vornahm. Dies ist unwiderleg-
bar durch die von Frl. Credel gemachten Aufzeichnungen ueber
die Versuche bewiesen, auf welche weiter unten Bezug genommen
wird. Da er schon derartige Versuche ausfuehrte, ist es so-
mit klar, dass der in diesem Brief gebrauchte Ausdruck "In-
fektions-Versuche" sich auf tatsaechliche kuenstliche Fleck-
fieber-Infektion bezieht, weil er die SS ueber Hirt und das
Ahnenerbe bat, ihm eine besondere Gruppe von Haftlingen fuer
diese Infektionsversuche zur Verfuegung zu stellen.

In diesem gleichen Brief vom 4. Oktober 1943 bespricht
Haagen Rosas Bericht ueber den Ipsen-Impfstoff aus Kopenhagen.

Er schloss seinen Brief mit der Bemerkung:

"Wenn wir Menschen zur Probeimpfung durch die SS bekommen, waere dies eine Gelegenheit, auch den Leberimpfstoff auf seine antiinfekti6se Wirkung zu pruefen. Ich wurde dann vorschlagen, dass parallel mit den Ipsenproben auch unser Material verwendet wird."

Haagen hat also eine falsche Aussage gemacht, als er erklarte, er haette keine Versuche mit dem Ipsen-Impfstoff vorgeschlagen. In seinem Brief hat er ganz deutlich den Vorschlag gemacht, ansteckungs-verhindernde Versuche sowohl mit dem Ipsen-Impfstoff als auch mit seinem eigenen Impfstoff vorzunehmen. Dies beweist wieder, dass der Ausdruck "Infektions-Versuche" unm6glich Mehrfach-Versuche mit virulentem Fleckfieber-Impfstoff bezeichnen kann. Der Ipsen-Impfstoff war ein avirulenter Impfstoff; er enthielt keinen abgeschwachten virulenten Virus. Dreimalige Impfung mit einem avirulenten Impfstoff konnte nicht einmal von Haagen als "Infektionsversuch" bezeichnet worden (R. 9655). Ausserdem ergibt das Beweismaterial der Verteidigung selbst, dass der Ipsen-Impfstoff bereits auf Vertraeglichkeit untersucht und als anderen von der Wehrmacht gebrauchten Impfstoffen vergleichbar befunden worden war. Dies ergibt sich u.a. klar aus dem Brief Rosas an die Behring-Werke und Haagen vom 29. September 1943 (Dokument Rose Nr. 22, Rose Beweisstueck 21, R. 6216). Es ist ganz klar, dass die einzige Versuchs-M6glichkeit, die fuer den Ipsen-Impfstoff uebrig blieb, genau die von Haagen vorgeschlagene war, naemlich die Nach-Infektion der geimpften und der Kontroll-Personen mit Fleckfieber.

Haagen wurde weiter durch die von seiner Assistentin, Fr1. Crodel, gefuehrten Aufzeichnungen ueber seine Fleckfieber-Versuche belastet. (NO-3852, Anklage-Beweisstueck Nr. 521, R. 9660). Haagen hat diese Aufzeichnungen mit Bestimmtheit als von Fr1. Crodel geschrieben anerkannt (R. 9691). Fr1. Crodel war viele Jahre lang Haagens Assistentin und er hat sie als unbedingt zuverlaessig befunden (R. 9701). Er gab zu, dass Fr1. Crodel in ihrer Arbeit sehr sorgfaeltig war (R.9697)

Auf Seite drei des Notizbuches erscheint eine Reihe von Eintragungen vom 30. April 1943 bis 27. Januar 1944 betreffend eine Reihe

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von Versuchen in Schirmeck. Die Eintragung fuer den 19. Mai 1943 zeigt, dass zwei von vier mit seinem Impfstoff injizierten Lausen starben.

Die Eintragung fuer den 26. Mai lautet:

"(4 Wochen) 3 - 6. Schirmeck 0,5 per Person und 6 Lausen 0,5 i.p.
5 tot, 10, 14, 14 Tage die beiden restlichen nach 4 Wochen."

Diese Eintragung beweist, dass an diesem Tage Menschen mit Haagens Impfstoff geimpft wurden. Nach diesen Eintragungen war das Mindestergebnis, dass fuerf Lausen, die in gleicher Weise geimpft worden waren, starben. Der Ausdruck "die beiden restlichen nach vier Wochen" kann sich offenbar auch auf den Tod von Versuchspersonen beziehen, da dieser Ausdruck mit Bezug auf die Einzige uebrige Laus ganz unmoeglich angewendet werden kann. Der Eintrag vom 6. Juli zeigt, dass an diesem Tage Haagen und seine Assistenten in Schirmeck erschienen, um von 10 Personen, die vorher geimpft worden waren, Blutproben fuer eine Weil-Felix-Reaktionspruefung. Die Eintragung gibt den Serumtiterwert fuer acht der Versuchspersonen an. Die Eintragung schliesst mit den lakonischen Worten: "Die andern zwei sind nicht mehr vorhanden." Diese Eintragung ist eine schluessige Bestaetigung der Aussage des Zeugen George Hirtz, der erklarte, dass Haagen im Sommer 1943 seinen Impfstoff in Schirmeck ausprobiert haette. Ungefuehr 20 polnische Haeftlinge wurden diesen Versuchen unterworfen, und zwei dieser Versuchspersonen starben infolge der Impfung. Hirtz sagte aus, dass er selbst die Koerper dieser Haeftlinge in Papiersaecke eingesaecht und sie zur Verbrennung abgeliefert haette. Die andern Versuchspersonen reagierten durch hohes Fieber, Anfaelle und Sprachstoerungen (S. 1293-1299). Seine Aussage wird ferner von Haagen selbst bestaetigt, der erklarte, dass er zwei Gruppen von 10 Haeftlingen in Schirmeck geimpft habe. Die Eintragung in den Crodelischen Aufzeichnungen bezieht sich offenbar auf eine dieser Gruppen von 10 Personen und nach der

Ankunft Haagens und seiner Assistenten im Labor zum Zweck
- Seite 14 des Originals -
der Blutentnahme stellte es sich heraus, dass zwei der Per-
sonen gestorben waren.

Die Eintragung fuer den 4. Oktober 1943 auf Seite drei
der Groedel'schen Aufzeichnungen lautet;

"(6 Monate) in Schirmeck 20 Personen geimpft, Roehrchen
2 ccm aq. dest., davon pro Person 0,5."

Dies bewd ist nicht nur, dass Haagen eine falsche Aussage ge-
macht hat, als er erklarte, dass er in Schirmeck nach dem Mai
1943 keine Fleckfieber-Impfungen vorgenommen haette, sondern
auch, dass mit seinem Impfstoff Mehrfach-Impfungen vorgenommen
wurden. Diese Eintragung traegt das gleiche Datum wie der
obenerwahnte Brief von Haagen an Rose, in welchem er eben-
falls sagte, dass er weitere Impfungen durchfuehrte. Die
letzte Eintragung auf Seite drei ist im Original mit dem 27.
Januar 1943 datiert und lautet:

"(9 Monate) gemischt mit gleicher Menge w.21.5. pro
Roehrchen 2 ccm aq. dest. 20 Personen je 1,0ccm."

Das Datum 1943 ist offensichtlich ein Irrtum von Frä. Groedel,
als sie die Eintragung machte. Dies ergibt sich daraus, dass
die in Klammern gesetzte Zeitangabe in den Aufzeichnungen sich
auf den Zeitraum bezieht, den der Impfstoff gelagert war. Ha-
agen gab dies zu (R. 9711). So bedeutet die Angabe "(9 Monate)"
dass der in dieser Versuchsreihe benutzte Impfstoff 9 Monate
lang, seit dem 30. April 1943, gelagert war, dem Tag der er-
sten Eintragung auf Seite drei und der Zeit, zu welcher der
Impfstoff zum ersten Mal hergestellt wurde. Dass das 1943 in d.
Original-Eintragung in der Tat 1944 lauten soll, geht auch
aus Seite vier der Aufzeichnungen hervor, worin die letzte
Eintragung die fuer den 27. Januar 1944 ist. Es ist ein ueb-
licher Irrtum, im ersten Monat des neuen Jahres noch das alte
Jahr zu brauchen.

Haagen impfte eine zweite Gruppe von 10 Personen in Schir-
meck am 10. Oktober 1943 und 20 weitere am 27. Januar 1944,
wie aus den Eintragungen auf Seite vier der Groedelschen Auf-
zeichnungen hervorgeht. Weiter beweist die Eintragung fuer den

14. Oktober 1943 auf Seite fuenf des Originals; dass 10 Personen zum dritten Male mit 1,0 ccm des neuen Haagenschen Impfstoffs geimpft wurden. Dass sich diese Eintragung auf virulenten Maouse-Impfstoff und nicht auf den Gildemeisterschen avirulenten Impfstoff bezieht, geht aus der vorhergehenden Eintragung hervor, welche von vier Kontroll-Personen spricht, die dreimal mit dem Gildemeisterschen Impfstoff geimpft worden seien. Diese Tatsache ist weiterhin klar, wenn man die Menge der Einspritzungen plus der Menge des pro Ampulle des neuen Haagenschen Impfstoffes gebrauchten destillierten Wassers wie in anderen Eintragungen angegeben, vergleicht.

Die Eintragung fuer den 25. Mai 1944 auf Seite 7 der Credelschen Aufzeichnungen zeigt, dass 30 Personen in Natzweiler geimpft wurden. "Die Impfung erfolgte waehrend der Inkubation (ein Transport, in dem auch Kranke waren), 13 erkrankten in der Zeit vom 29. Mai bis 9. Juni, davon starben zwei." Haagen hatte verschiedentlich ausgesagt, dass er in Natzweiler nach dem Januar 1944 keine Impfungen vorgenommen haette. Er hat nicht nur Versuche nach dem Januar 1944 durchgefuehrt, sondern, wie aus der obigen Aufzeichnung hervorgeht, sind Personen im Laufe dieser Versuche gestorben. Durch seine eigene Aussage bestaetigt Haagen, dass die Eintragungen sich auf einen Versuch beziehen, waehrend dessen die Personen kuenstlich mit Fleckfieber infiziert wurden. Obgleich die Eintragung so wohltoenend bemerkt, dass die Impfungen "waehrend der Inkubation erfolgten", bestaetigte Haagen, wie schon verschiedentlich von der Anklagebehoerde vorgebracht, dass es unmoeglich ist zu wissen, wann eine Person sich in der Inkubation befindet. Die Inkubationszeit ist die Zeit zwischen der Infektion und den ersten Krankheitserscheinungen. Dementsprechend ist es ausgeschlossen festzustellen, dass eine Impfung waehrend der Inkubation stattfindet, ausser wenn die betreffende Person kuenstlich infiziert wurde, sodass das Datum der Infektion bekannt ist. (Haagen, P. 9701-2).

Es ist bezeichnend festzustellen, dass die Tabelle auf

Seite 14 der Gredolschen Aufzeichnungen das Wort "Nachimpfung" gebraucht,

Seite 16 des Originals.

das heisst soviel wie Wieder-Impfung in Verbindung mit den Wiederholungs-Impfversuchen an zwei Mäusen (von denen nebenbei bemerkt beide starben), und nicht so sehr der Ausdruck "Nachinfektion", was eine anschliessende Infektion bedeuten wuerde, wie er haeufig von Haagen in seinen Briefen ueber Menschenversuche angewandt wird.

Haagen hat ausgesagt, dass der Angeklagte Schroeder ihn am 25. Mai 1944 besucht hat, am gleichen Tage, an dem er Versuche in Natzweiler machte. (Haagen R. 9632). Waehrend es natuerlich ganz gut moeglich ist, dass Schroeder Haagen vielleicht am 24. oder 26. Mai besucht hat, anstatt am 25., ist die Tatsache ganz offensichtlich, dass auf alle Faelle Haagens so wichtige Fleckfiebersversuche mit Schroeder besprochen worden sind, entgegen der Aussagen der beiden. Genau dasselbe trifft auf den Besuch des Angeklagten Becker-Freyseng zu, ein paar Tage nach Schroeders Besuch (Haagen R. 9569) sowie auch auf Rose, der Haagen sowohl im Jahre 1943 als auch in 1944 besucht hat. (Haagen R. 9570) Haagens Aussage, dass Becker-Freyseng extra von Berlin gekommen waere, nur um mit ihm ueber die Beschaffung von Kaninchen und Mäusen zu sprechen, ist ebenso unglaubwuerdig wie Haagens uebrige Aussagen.

Der Angeklagte Schroeder hat ausgesagt, dass Haagens Forschungsauftrag nicht geheim war, und er hat versucht, auf Grund dessen zu beweisen, dass keinerlei Verbrechen vorgekommen sein koennten. (R. 3654). Wir brauchen mit dem Hinweis auf die Dummheit dieser Argumente keine Zeit zu verlieren, es genuegt zu sagen, dass Schroeders Aussagen sich auf Grund einer Liste ueber die von Schroeders Buero im Jahre 1944 erteilten Forschungsauftraege, als falsch erwiesen haben. Haagens Flecktyphus-Arbeiten waren als "geheim" bezeichnet.

(NO-934, Ankl.Bow.458, R.3655)

Die Aussage des Zeugen Nalos bestaetigt den Beweis, der weiter oben und auch in dem Schriftsatz gegen Rose umrissen ist, naemlich, dass Haagen Versuche angestellt hat, um die Immunitaet seines Impfstoffes durch kuenstliche Flecktyphus-Infektion seiner Versuchspersonen zu erproben. Nalos, ein Hollaender, war 1940 von der Gestapo wegen angeblicher Teilnahme an der Widerstandsbewegung verhaftet worden. Trotzdem er in einem Prozess freigesprochen worden war, kam er im April 1941 in das Konzentrationslager Buchenwald. Im Maerz 1942 wurde er nach Natzweiler ueberfuehrt und wurde da im November 1942 Pfleger auf der Ahnenerbe Versuchsstation. (R. 10409-10). Er hat ausgesagt, dass gegen Ende des Jahres 1943 100 Zigeuner fuer Haagens Flecktyphus Versuche von Auschwitz nach Natzweiler geschickt worden sind. Haagen fand sie koerperlich ungeeignet, woraufhin 90 weitere Zigeuner geschickt wurden. Diese wurden in zwei Gruppen eingeteilt und in getrennten Raeumen auf der Ahnenerbe Versuchsstation gehalten. Eine Gruppe wurde gegen Flecktyphus geimpft. Ungefuehr 14 Tage spaeter wurden beide Gruppen kuenstlich mit Flecktyphus infiziert, mit dem Ergebnis, dass ca. 30 der Versuchsobjekte starben. Nalos hat diese Opfer selbst gepflegt und ihre Leichen gesehen. Er hat haeufig mit ihnen gesprochen und wusste, dass sie sich nicht freiwillig gemeldet hatten, wie Haagen uebrigens auch selbst im Zeugenstand zugegeben hat. Diese Zigeuner gehoerten verschiedenen Nationalitaeten an, einschliesslich Polen, Tschechen, Ungarn und auch Deutsche (R. 10419-23).

Haagens Influenza Experimente an Gefangenen in Schirmeck brauchen hier nur kurz gestreift zu werden. Im Januar 1942 erhielt er vom Luftwaffen Sanitaetsdienst einen Auftrag fuer Influenza-Impfstoff-Forschung, der im Jahre 1943 und 1944 veraengert wurde. (Haagen, R. 9570). Im Jahre 1943 hat er 20 Frauen im Konzentrationslager Schirmeck

mit seinem virulenten Influenza-Impfstoff geimpft. (R. 9571). Er hat ausgesagt, dass dies kein Versuch sondern eine Schutzmassnahme gewesen sei. Er hat behauptet, dass er nicht daran interessiert gewesen waere, den Impfstoff auszuprobieren, sondern dass er nur eine Influenza-Epidemie und eine Flecktyphus-Epidemie befuerchtet haette. Er impfte diese Gefangenen an den exponiertesten Stellen. (R. 9572-3). Trotzdem Haagen nur genug Impfstoff fuer 250 bis 300 Personen zur Verfuegung hatte, hat er doch diese bemerkenswerte Besorgnis fuer die Schirmecker Gefangenen gezeigt. (R. 9571). Er hat ausgesagt, dass er, da seine Arbeiten in Schirmeck nichts mit dem Forschungsauftrag der Luftwaffe zu tun hatte, die damit zusammenhaengenden Unkosten auch nicht der Luftwaffe belastet haette. (R. 9574). Seine Unkostenabrechnung mit der Luftwaffe ueber die Influenza Forschungen fuer 1943-1944 widerspricht dem aber. (NO-3450 Ankl.Bow. 519, R9587). Dieses Dokument beweist ausserdem, dass er, im Widerspruch zu seiner Aussage, am 12. Februar 1944 einen Abstecher nach Schirmeck gemacht hat.

Haagens lange und fortgesetzte Taetigkeit in Schirmeck ist deutlich aus seinen Abrechnungsbuechern ueber die Forschungsaufgaben fuer Gelbfieber und Fleckfieber ersichtlich. Seine Arbeiten in Schirmeck haben mindestens schon am 20. April 1943 begonnen. Er hat Ende August 1944 noch Telefonanrufe nach Schirmeck gebucht, also ein Jahr nach seinen angeblichen "letzten Impfungen" dort. Diese Auslagen wurden dem Luftwaffen Sanitaetsdienst belastet. (NO-3837, Ankl.Bow. 542, R. 10365). Sie waren so spezifiziert, dass sie auf den ersten Blick seine Taetigkeit in den Konzentrationslaegern vorraten. (Siehe auch NO-3450, Ankl.Bow. 519, R. 9587).

Haagen hat zugegeben, dass man unter Infektionsversuchen nur dreierlei verstehen kann: (1) nachtraegliche kuenstliche Infektion mit Fleckfieber, (2) Impfungen an einer grossen Gruppe von Menschen mit anschliessendem Studium der Wirkungskraft

während einer natürlichen Epidemie, und (3) Weil-Polix-Reaktions-Untersuchungen vor und nach der anschliessenden Impfung. (R. 9601). Er hat zu, dass die Auslegung der Anklagebehörde der Begriffe "Infektions-Versuche" und "anschliessende Infektion" mit seiner eigenen übereinstimmt. (R. 9611). Er hat zugegeben, dass der Ausdruck "Nachimpfung" genau so gut wie der Ausdruck "Nach-Infektion" hätte angewandt werden können. (R. 9611).

Der Gerichtshof braucht sich nicht mit spitzfindigen Fragen über verschiedene Auslegung der Dokumente zu befassen. Die ganz einfache Frage ist: Hat Haagen im Verlaufe seiner Experimente Verbrechen begangen. Dass es sich tatsächlich um "Experimente" handelte, wird nicht bestritten. Haagen hat diesen Ausdruck des öfteren in seinen eigenen Briefen angewandt. Es ist auch keine Streitfrage, dass die Häftlinge, die als Versuchsobjekte verwandt wurden, sich nicht freiwillig gemeldet hatten und dass sich auch Angehörige der von den Deutschen besetzten Ländern darunter befanden. Haagen hat das zugegeben. Die Unterlagen und die Aussagen beweisen, dass eine erhebliche Anzahl von Versuchsobjekten im Laufe dieser Versuche getötet worden sind. (S. auch Schriftsatz der Anklagebehörde gegen den Angeklagten Rose). Diesem überwältigenden Beweis stehen Haagens und Roses Aussagen gegenüber, die sich beide im Zeugenstand verschiedentlich Meineidig gemacht haben. Ihre eigenen Aussagen sind schliesslich der beste Indizienbeweis für das Verbrecherische ihrer Experimente. Man legt nicht grundlos ein falsches Zeugnis ab. Nur die, die das Licht der Wahrheit scheuen, machen sich Meineidig. Diese Männer nehmen ihren Eid genau so leicht, wie sie das Leben ihrer hilflosen Opfer genommen haben.

Roses und Haagens Schuld ist das Mass für Schroeders Schuld. Als Sanitätschef der Luftwaffe unterstand Haagen seinen Befehlen. (Schroeder, R. 3636). Schroeders Buero erteilte die Forschungsaufträge,

auf Grund welcher diese Versuche angestellt wurden. Es stellte die Mittel fuer die Durchfu^hrung zur Verfuegung. Es nahm die Berichte ueber die Experimente entgegen und wusste, dass sie an Konzentrationslager Haeftlingen durchgefuehrt wurden. (Siehe oben Eyser, R. 1758). Schroeder war persoenlich in Strassburg, gerade zu der Zeit als die Experimente in Gang waren. Seine Schuld ist klar und eindeutig.

C. Gas-Versuche (Anklageschrift, Absatz 6 (D))

Der Sanitaetsdienst der Luftwaffe, der dem Angeklagten Schroeder unterstand, nahm ebenfalls an den von Hirt und Haagen im Natzweiler Konzentrationslager vorgenommenen verbrecherischen Gas-Versuchen teil.

Hirt fing mit seinen Gas-Experimenten in Natzweiler im November 1942 an. (NO-098, Ankl.Bew. 263, R. 1028). Sie dauerten durch den Sommer 1944 an. (Holl. R. 1058). In diesem Zeitraum wurden an ungefaehr 220 Haeftlingen, Russen, Polen, Tschechen und Deutschen Versuche mit Gas angestellt, bei denen ungefaehr 50 davon starben. Sie hatten sich nicht freiwillig zur Verfuegung gestellt. Ihre Koerper wiesen graessliche Verbrennungen durch das Gas auf und die Opfer erblindeten haeufig. (Holl, R. 1052: ¹⁰⁵⁷ Nalos R. 10412-13, 10432).

Holl und Nalos haben beide ausgesagt, dass ein Luftwaffen Arzt zusammen mit Hirt sich mit diesen Versuchen beschaeftigt hat. (Holl, R. 1059, 1061; Nalos, R. 10448). Es war dies der Oberarzt Wimmer, Stabsarzt bei der Luftwaffe. Er war vom Luftgau VII zu Hirt's Verfuegung fuer diese "kriegswichtigen" Gas-Versuche abgestellt. (NO-195, Ankl.Bew. 266, R. 1033). Haagen hat ausgesagt, dass Wimmer einer von Hirts Assistenten war. (R. 9581-2). Wimmer hat seit dem Sommer 1942 bis 1944 mit Hirt zusammen an diesen Gas-Versuchen gearbeitet. (NO-196, Ankl.Bew. 261, R. 1027; Ankl.Bew. 267, R. 1034). Wimmer war

gemeinsam mit Hirt Verfasser des 1944er Berichts ueber die Behandlung von Lost-Gas-Verwundungen. Dieser Bericht behandelt schwere, mittelschwere und leichte Gas-Verwundungen. (NO - 099, Ankl.B ew. 268; R. 1035). Schroeder ist fuer diese Verbrechen Wimmers im Zuge der Gas-Experimente verantwortlich. Die Anwendung von Yamashita siehe oben.

Die Beweismittel haben ergeben, dass Haagen ebenfalls Gas-Experimente angestellt hat. Haagen gibt zwar zu, dass er Hirt und Bickenbach, die mit ihm zusammen Professoren an der Strassburger Universitaet waren, kannte und Fuehlung mit ihnen hatte, streitet aber jede Kenntnis hinsichtlich ihrer Gas-Versuche ab. (. 9584-5). Er moechte auch gern den Gerichtshof glauben machen, dass er nichts von der Skelottsammlung wusste, wo doch die Zeichen hierfuer im Keller des Anatomischen Instituts, 5 Minuten von Haagens Buero entfernt lagen. (R. 9586). Wimmer, der als Zeichner bei Hirt arbeitete, hat in seiner eidesstattlichen Erklaerung ausgesagt:

"Waehrend der Zeit, wo ich fuer Professor Hirt taetig war, bis zum Ende des Krieges, habe ich Dokumente und Originalphotographien gesehen, nach denen es sicher ist, dass Hirt, Haagen und Bickenbach Experimente an menschlichen Lebewesen vorgenommen haben. Diese Photographien zeigten die Erfahrungsergebnisse mit Giftgas und aehnlichen Stoffen.

"Ich musste fuer Prof. Haagen eine Tafel anfertigen, von ca. 1 x 2 m, auf welcher die verschiedenen Kampfgase mit ihren chemischen Formeln und Einzelheiten ueber ihre Gefaehrlichkeit fuer Menschen aufgezeichnet waren. Daraus schloss ich, dass derartige Versuche mit Menschen gemacht werden waren." (NO-891, Prof.Ex. 280, R. 1074).

Schub, der im Medizinischen Forschungsinstitut unter Haagen arbeitete, hat in seiner eidesstattlichen Erklaerung ausgesagt: "Von Meyer habe ich ausserdem erfahren, dass Haagen zusammen mit Professor Hirt Versuche mit Kampfgas (Lost) in Matzweiler

an juedischen Gefangenen vorgenommen hat." (VO-335, Ankl.Bew. 314, R.1413). Waagen hat zugegeben, dass Schuh und Meyer unter ihm im Medizinischen Versuchsinstitut gearbeitet haben. (R. 9583). Meyer ist bei einem Bombenangriff im Herbst 1944 getoetet worden.

Wagners und Schuhs Aussagen werden durch Broers und Nales Aussagen noch erhaertet. Broers, ein hollaendischer Arzt, hat ausgesagt, dass er wegen Betaetigung in der Widerstandsbewegung festgenommen und trotz zweimaliger Freisprechung als "Nacht und Nobel"-Gefangener im Juli 1942 nach Natzweiler geschickt wurde. (R. 10388-90). Im Mai oder Juni 1944 hat er einem andern Haeftling namens Boegarts, in Wirts Gegenwart, bei der Sezierung mehrerer Zigeuner, die bei den Giftgas-Experimenten umgekommen waren, assistiert. Waechrend der Sezierung seien Waagen und ein blondes Maedchen (zweifolles Fraeulein Groedel) hereingelommen, um zu sehen, was da gemacht wurde. (R. 10392-5).

Nales hat ausgesagt, dass um den Mai 1944 herum Waagen Gas-Versuche an ungefaehr 8 Ueberlebenden der Fleckfieber-Experimente angestellt hat, von denen mehrere an den Folgen starben. Das waren keine Freiwilligen; es handelte sich um Tschechen, Polen und Ungarn. (R. 10423). Dies ist weiterhin bestaetigt durch einen Auszug aus dem Monatsbericht des Natzweiler Lagerarztes fuer den Juni 1944, der wie folgt lautet:

"IV Sonstiges

(1) Versuchsstation: In der Versuchsstation wurden in der Berichtszeit Versuche mit 16 Zigeunern vorgenommen. Drei Todesfaelle waren zu verzeichnen." (VO-307, Prof. Ex. 185, R. 732,)

Wenn auch dieser Auszug keine Einzelheiten ueber die Art der Experimente gibt, so kann es sich doch nur um Gas- oder Fleckfieber handeln, da dies die einzigen Experimente waren, die in Natzweiler durchgefuehrt wurden. Waagen hat zugegeben

dass die Auszüge aus anderen Berichten, datiert vom 25. November 1943, 24. Dezember 1943 und 1. Februar 1944 sich wahrscheinlich auf seine Fleckfieber-Versuche bezogen hatten. (R. 9640-1, 9647).

D. Epidemische Gelbsucht-Versuche (Anklageschrift Ziff. 6 (H))

Im Juni 1944 wurde eine Konferenz von Spezialisten mit dem Zweck der Gleichschaltung der Gelbsucht-Forschung einberufen. Diese Konferenz fand in Breslau statt, unter dem Vorsitz von Schreiber, (Gutzeit, R. 2752), Mandloser, Gutzeit und Waagen nahmen daran teil. (Gutzeit R. 2717). Waagen hat im Kreuzverhör zugegeben, dass Versuche an lebenden Menschen diskutiert wurden. Dass verbrecherische Experimente an Konzentrationslager-Insassen besprochen worden sind, geht klar aus der Tatsache hervor, dass Schreiber im Januar 1945 Wrugowski persönlich gebeten hat, fuer Dr. Dresels Versuche mit Hepatitis Macftlinge zur Verfuegung zu stellen. (NO-1303, Ankl.Bow. 467, R. 5400). Schreiber beauftragte eine Gruppe von Aerzten, gemeinsam an dem Gelbsucht-Problem zu arbeiten. Dohmen, Gutzeit und Waagen wurden einer dieser Gruppen zugeteilt. (Gutzeit, R. 2717). Am 12. Juni 1944 hat Waagen selbst Schreiber gebeten, ihm Dohmen fuer die Zusammenarbeit zuzuteilen. Generalarzt Schreiber war damals Kommandeur der Militaer-Aerztlichen Akademie unter Mandloser. (NO-299, Ankl.Bow.190, R.739). Schreiber hat dieser Bitte entsprochen. (NO-300, Ankl.Bow.191, R.740).

Am 24. Juni 1944 hat Gutzeit an Waagen beschrieben, dass er Schreiber ebenfalls bitten wuerde, Dohmen ihm, Waagen, zuzuteilen. Dann sagte er weiter, dass er Versuche an lebenden Menschen in Vorbereitung haette, und dass er von Waagen gern dessen Virus-Material haben moechte. (NO-124)

Ankl.Bew. 193, R. 743). Waagen beantwortete Gutzoits Brief am 27. Juni 1944, in dem er schrieb, dass er froh waere, dass Dehnen ihm ab 15. Juli zugewiesen worden wuerde. Weiter schreibt er, dass er zusammen mit Kalk, Bueschner und Zuchschwert, alle drei Luftwaffenoffiziere, an dem Gelbsucht-Problem arbeitete, und dass er mit Kalk ueberein gekommen sei, mit seinem Material Menschenversuche vorzunehmen. (NO-125, Ankl.Bew. 194, R. 744). Am selben Tage schrieb Waagen an seinen Mitarbeiter Kalk, der Schroeders Berater und Spezialist fuer Hepatitis war, (Schroeder R. 3652), wie folgt:

"In der Anlage uebersende ich Ihnen die Abschrift eines Briefes von Gutzeit und meine Antwort. Wir muessen also jetzt baldmoeglichst daran gehen, die Humanversuche durchzufuehren. Diese muessen allerdings am besten hier in Strassburg oder in der Nahe stattfinden. Koennen Sie von Ihrer Dienststelle aus die noetigen Schritte unternehmen, dass wir die erforderlichen Versuchspersonen bekommen. Ich weiss nicht, was fuer Maenner Gutzeit zur Verfuegung hat, Soldaten oder anderes Volk?
Fuer eine baldige Nachricht waere ich Ihnen dankbar."
(NO-126, Ankl.Bew. 195, R. 745).

Der Ausdruck "anderes Volk" ist ein offensichtlichlicher Hinweis auf Konzentrationslager Haeftlinge, an denen Waagen schon seit langem mit virulenten Fleckfieber/^{virus} experimentiert hatte, waehrend der Ausdruck "Strassburg oder unmittelbare Nahe" auf das Konzentrationslager Natzweiler hinweist. Die Zeugin Olga Eyer, Waagens Sekretaeerin, hat ausgesagt, dass Gefangene fuer die Epidemischen Gelbsucht-Versuche angefordert werden waren. (R. 1759). Waagen moechte dem Gerichtshof glauben machen, dass er Freiburg oder Weidelsberg gemeint haette, die 60 bzw. 100 Kilometer von Strassburg entfernt sind, waehrend Natzweiler nur ein paar Kilometer weit weg ist. (R. 9579)

Herr Kalk und sein Chef, der Angeklagte Schroeder wussten gut Bescheid, wie man sich Konzentrationslager-Häftlinge fuer medizinische Versuche beschaffen konnte, da Schroeder erst ein paar Wochen vorher selbst solche Häftlinge von Himmler fuer die Meerwasser-Versuche erbeten hatte. (AO-185, Ankl.Bew.134, A. 463; siehe unten).

E. Meerwasser-Versuche (Anklageschrift, Abs. 6 (3)).

Die an Häftlingen des Konzentrationslagers Dachau vorgenommenen Meerwasserversuche waren von ihrem ersten Anfang im Mai 1944 an ein verbrecherisches Unternehmen. Nach 2 Jahren moerderischer medizinischer Experimente an Konzentrationslager-Häftlingen durch Aerzte der Luftwaffe, einschliesslich der Hochen-, Kaelte-, Gas- und Fleckfieberversuche in Buchenwald und Mauthausen ordnete der Angeklagte Schroeder im sicheren Bewusstsein, dass einige der Versuchspersonen wahrscheinlich sterben wuerden, persoenlich die Vornahme der Meerwasserversuche an. Seine Untergebenen Becker-Freysong, Beiglboeck und Schaefer, nahmen an der Planung und Durchfuehrung derselben teil.

Am 19. Mai 1944 fand eine Konferenz im Reichsluftfahrtministerium (RLM) statt, an der u.a. Christensen, Schickler, Becker-Freysong und Schaefer teilnahmen. Diese Konferenz befasste sich mit dem Problem der Trinkbarmachung von Meerwasser. Zwei Methoden Meerwasser trinkbar zu machen, standen zu dieser Zeit dem Sanitaetsdienst der Luftwaffe zur Verfuegung. Die eine, die sogenannte Schaefer'sche Methode, war chemisch geprueft worden und produzierte anscheinend trinkbares Meerwasser. Sie hatte jedoch den Nachteil, dass sie betraechtliche Mengen von Silber benoetigte, das nur in beschraenkten Mengen zur Verfuegung stand. Die zweite Methode, Borkatit genannt, war eine Substanz

die den Geschmack des Meerwassers veraenderte, aber das Salz nicht ausschied. Sie hatte den Vorteil einfacherer Herstellung und Verwendung.

Auf der Tagung am 19. Mai berichtete der Angeklagte Becker-Freysong ueber gewisse klinische Experimente, die von Sirany zwecks Erprobung von Borkatit durchgefuehrt worden waren. Er kam zum Schluss, dass die Bedingungen, unter denen die Experimente vorgenommen worden waren, nicht genuegend realistisch der Seenet entsprachen. Er berichtete, der Chef des Luftwaffensanitätsdienstes

"sei davon ueberzeugt, dass bei dem Borka-Verfahren nach dem Genuss des Borkatits nach spaetestens 6 Tagen gesundheitliche Schaeden zu erwarten sind, welche eine dauernde gesundheitliche Schaedigung nach sich ziehen und nach Ansicht von Unterarzt Dr. Schaefer nach spaetestens 12 Tagen mit toedlichem Ausgang enden wird. Acusserer Erscheinungen sind durch Entwässerung, Durchfall, Kraempfe, Halluzinationen und endlichen Tode zu erwarten!" (NO-177, Ankl.Bev. 133, R. 479).

Das Resultat dieser Konferenz war ein Beschluss, neue Experimente vorzunehmen. Diese sollten eine Versuchsreihe fuer die Dauer von hoechstens 6 Tagen umfassen, waehrend welcher einer Gruppe von Versuchspersonen mit Borkatit behandeltes Meerwasser gegeben werden sollte, einer anderen Gruppe gewoehnliches Trinkwasser, einer weiteren Gruppe ueberhaupt kein Trinkwasser und der letzten Gruppe Wasser, das in dem damals gebräuchlichem Seenetproviand enthalten war. Man beschloss die Vornahme einer zweiten Versuchsreihe und der Bericht fuehrte aus:

"Leute mit Meerwasser und Borkatit ernaeuert, als Proviand ebenfalls den vorgeschenen Seenetproviand.

"Versuchsdauer 12 Tage.

"Da nach Ansicht des Chefs des Sanitätswesens bei dieser Versuchsreihe mit dauernden gesundheitlichen Schaedigungen bzw. dem Tode der Versuchspersonen zu rechnen ist, sollten als Versuchspersonen Leute genommen werden, welche seitens des Reichsfuehrers-SS zur Verfuegung gestellt werden." (NO-177, oben).

Also im vollen Bewusstsein, dass die Verwendung von Berkatit fuer einen Zeitraum von 6 Tagen eine dauernde Schädigung der Versuchspersonen mit sich bringen und dass spaetestens am 12. Tage der Tod eintreten wurde, wurden Pläne gemacht, Experimente durchzufuehren, die 6 bis 12 Tage lang dauern sollten. Es ist zu beachten, dass der Konferenzbericht nicht angibt, dass die Maximaldauer 12 Tage sei, wie bei den ersten Versuchsreihen. Da man wusste, dass man unter solchen Umständen nicht mit Freiwilligen rechnen konnte, entschied sich die Konferenz dafuer, Konzentrationslager-Häftlinge zu verwenden, die ihr von der SS zur Verfügung gestellt werden wurden. Im Bericht ueber eine zweite Tagung am 20. Mai 1944 heisst es: "Als Versuchsort wurde Dachau bestimmt." (No-177, oben). Abschriften der Berichte ueber die Tagung gingen u.a. an die Sanitätsversuchs- und Lehrabteilung der Luftwaffe Juckerberg, der die Angeklagten Schaefer und Holzschner, die die Kälteexperimente mit Pascher durchfuehrten, zugestellt waren; an die DVL Berlin-Adlershof, der die Angeklagten Puff und Bomberg zugestellt waren; an die Luftwaffensanitätsinspektion (I. In. 14); und an den Reichsfuehrer-SS; der Bericht war von Christensen von dem technischen Buero des RIV unterzeichnet.

Am 7. Juni 1944 schrieb der Angeklagte Schroeder an Himmler auf dem Weg ueber Grawitz und ersuchte um Konzentrationslagerhäftlinge, die als Versuchspersonen bei den Meerwasserversuchen verwendet werden sollten. Dieser Brief lautet auszuweis:

"Sie haben bereits fruher der Luftwaffe die Möglichkeit, dringende aerztliche Fragen im Versuch an Menschen zu klären. Ich stehe heute wieder vor einer Entscheidung, die nach zahlreichen Tier- und auch Menschenversuchen an freiwilligen Versuchspersonen eine endgueltige Lösung verlangt: die Luftwaffe hat gleichzeitig zwei Verfahren zum

"Trinkbarmachen von Meerwasser entwickelt. Das eine, von einem San.-Offizier entwickelte Verfahren entsalzt das Meerwasser und macht es zu einem wirklichen Trinkwasser, das zweite, von einem Ingenieur angegebene Verfahren lässt den Salzgehalt unverändert, es nimmt dem Seewasser nur den unangenehmen Geschmack. Das letzte Verfahren benötigt im Gegensatz zum ersten keine Engpassrohstoffe. Ärztlichersseits muss dieses Verfahren nach unseren heutigen Kenntnissen als bedenklich angesehen werden, da die Zufuhr konzentrierter Salzlösungen schwere Vergiftungserscheinungen hervorrufen kann.

"Da die Versuche an Menschen bisher nur bis zu einer Dauer von vier Tagen durchgeführt werden konnten, die praktischen Forderungen aber eine Versorgung in Seesnot gerätener bis zu 12 Tagen verlangen, sind entsprechende Versuche erforderlich."

"Benötigt werden 40 gesunde Versuchspersonen, die fuer 4 Wochen voll zur Verfügung stehen müssen. Da von früheren Versuchen bekannt, dass im Konzentrationslager Dachau die notwendigen Laboratorien sind, waere dieses Lager sehr geeignet." (Wa-185, Anklage.Bew. 134, R.485, Unterstreichungen hinzugefügt.)

Schroeder schloss den Brief mit dem Bemerkten, dass die Versuche unter Reibelbecks Leitung stehen sollten.

Der Brief beweist, dass der Angeklagte Schroeder von den früheren verbrecherischen Experimenten seitens der Luftwaffen-Aerzte am Konzentrationslager-Haefthlin en Kenntnis hatte. Zweimal erwacht der frühere Experimente, die durch die Zurverfügungstellung von Haefthlingen seitens der SS ermöglicht worden waren. Weiterhin beweist der Brief, dass die Versuchspersonen keine Freiwilligen sein sollten. Schroeder sagt ausdrücklich im zweiten Satz des ersten Absatzes, dass zahlreiche Versuche bereits an "freiwilligen Versuchspersonen" durchgeführt worden seien, aber dass das Problem jetzt eine endgültige Lösung erfordere, da diese Versuche nur fuer eine Dauer von vier Tagen durchgeführt worden seien, waehrend fuer die Praxis ein Mittel fuer Seesnot bis zu 12 Tagen Dauer erforderlich sei.

Die Verteidigung hat die Richtigkeit der Uebersetzung des zweiten Satzes im ersten Absatz bestritten und eine andere Uebersetzung vorgelegt, der zufolge Schroeder den Reichsfuehrer um Stellung von freiwilligen Versuchspersonen ersucht habe. Die Uebersetzungssachverstaendigen des OCCWC haben die Richtigkeit der obigen Uebersetzung bezeugt, und die Anklagebehoerde verlaesst sich darauf. Dass diese Uebersetzung richtig ist, geht vollkommen klar aus dem Sitzungsprotokoll vom 19. und 20. Mai 1944 hervor, das ausdruecklich erklarte, dass, da bei diesen Versuchen Todesfaelle zu erwarten seien, nur solche Leute bei den Versuchen verwendet werden sollten, die von Himmler zur Verfuegung gestellt werden wuerden. Es ist laecherlich, bei Versuchen, bei denen mit Todesfaellen als mit einer feststehenden Tatsache gerechnet wird, von Freiwilligen zu sprechen. Man muss sich ferner daran erinnern, dass die Luftwaffe schon seit langem in den Konzentrationslagern Versuche an unfreiwilligen Versuchspersonen durchgefuehrt hatte. Die Meerwasserversuche waren nur ein Glied in einer Reihe verbrecherischer Experimente, die von der Luftwaffe eingeleitet worden waren. Schroeder wandte sich an die SS, weil er von diesen frueheren Versuchen Kenntnis hatte.

Die Tatsache, dass diese Versuche an unfreiwilligen Versuchspersonen durchgefuehrt wurden, wird auch durch Grawitzens Schreiben an Himmler vom 28. Juni 1944 bezeugt. (NO-179, Ankl. Bew. 135, R. 485). In diesem Schreiben legt Grawitz ausser seiner eigenen Ansicht ueber die geplanten Versuche auch die von Gebhardt, Gluecks und Nebe dar. Gluecks erklarte, dass "gegen die Durchfuehrung der vom Chef des Sanitaetswesens der Luftwaffe erbetenen Versuchsreihe in der Versuchsstation Rascher im Konzentrationslager Dachau von hier aus keinerlei Bedenken erhoben werden. Es sollen nach moeglichkeit Juden oder in Quarantaene befindliche Haeftlinge verwendet werden." Man kann sich unmoeglich vorstellen,

dass ein Jude aufgefordert worden waere, sich freiwillig fuer irgend-
etwas im Dritten Reich zu melden, zu einer Zeit wo sie millionenweise
in Konzentrationslagern hingschlachtet wurden. Nebe fuehrte aus: "Ich
schlug vor, hierzu die asozialen Zigeunermischlinge zu verwenden. Hier-
unter befinden sich Menschen, die zwar gesund sind, aber fuer den Arbeits-
einsatz nicht in Frage kommen. Ich werde diesen zigeunerischen Menschen
wegen demnaechst Reichsfuehrer einen besonderen Vorschlag unterbreiten,
halte es aber fuer richtig, die erforderliche Anzahl Versuchspersonen
aus diesem Personenkreis auszuwaehlen. Falls Reichsfuehrer zustimmt,
werde ich die Versuchspersonen namhaft machen." Es ist etwas schwierig
sich vorzustellen wie Nebe, der Leiter der Reichskriminalpolizei, Zi-
geunerfreiwillige fuer diese Experimente "namhaft" machen konnte.
Grawitz widersprach der Benutzung von Zigeunern aus dem Grund, dass sie
"teilweise andersartig rassisch zusammengesetzt seien", weshalb es wuen-
schenswert sei, Versuchspersonen zu haben, die rassisch der europaei-
schen Bevoelkerung vergleichbar sind. Himmler entschied, dass Zigeuner
und drei andere Personen zu Kontrollzwecken benuetzt werden sollten.
(NO-183, Ankl. Bw. 136, R. 487).

Schroeder hat ausgesagt, dass er versucht habe, die Meerwasserver-
suche im Luftwaffenlazarett in Braunschweig durchfuehren zu lassen. Nach
seiner Zeugenaussage erinnerte er sich deutlich daran, mit dem Lazarett-
leiter am 1. Juni 1944 in Verbindung getreten zu sein. Er hat auch be-
kundet, dass er versucht habe, Ende Mai Studenten der Medizinischen Aka-
demie der Luftwaffe als Versuchspersonen zu gewinnen. Beide Versuche
des
scheiterten angeblich wegen ^{des} Mangels an klinischen Einrichtungen und
wegen Einberufung der Studenten zum Wehrdienst. Schroeder hat ausgesagt,
dass er sich erst nach Erschoepfung aller anderen Moeglichkeiten an die
SS gewendet habe. Er will

dem Bericht einreden, man habe unmöglich 40 Freiwillige und die noeti-
gen klinischen Einrichtungen an einem Ort finden koennen, trotzdem von
Sirany in Wien an Wehrmachtangehoerigen derartige Versuche, aber natuer-
lich nur fuer die Dauer von vier Tagen, durchgefuehrt hatte. (R. 3657, 9).

Im Zusammenhang mit dieser Aussage Schroeders muss man beachten,
dass die Sitzungsprotokolle vom 19. und 20. Mai 1944 sofort der SS ueber-
sandt wurden. Der Beschluss zur Verwendung von Konzentrationslagerhaeft-
lingen hing nicht ab vom Erfolg der Bemuehungen, Freiwillige zu finden,
sondern wurde am 19. Mai gefasst. Es war bekannt, dass wegen der beson-
deren Lagerung der geplanten Versuche Freiwillige nicht zu finden sein
wuerten. Umgekehrt kann man unmöglich glauben, der oberste Leiter des
gesamten Sanitaetswesens der Luftwaffe haette fuer Versuche, die seiner
Angabe nach so unschuldiger Natur waren, nicht 40 Freiwillige finden
koennen. Es gab keine Vorschriften, die die Verwendung von Wehrmachtan-
gehoerigen zu Versuchen untersagten. (Schroeder, R. 3660). In Zusammen-
hang mit den in seinem Schreiben vom 27. Juni 1944 an Kalk, einen Ange-
hoerigen des Stabes von Schroeder, beschriebenen Epidemischen-Gelbsucht-
Versuchen an Menschen, hat sich der Entlastungszeuge Haagen ausfuehrlich
darueber ausgelassen, dass er Freiwillige der Strassburger, Freiburger
oder Heidelberger Studentenkompanien der Wehrmacht habe verwenden wollen.
(R. 9578). Er war ueberzeugt, dass freiwillige Studenten haetten gefunden
werden koennen. Nach seiner Aussage haette er sie waehrend ihrer Ferien
verwenden koennen. (Haagen, R. 9579). Auch Kalk war sicher, dass dies
moeglich gewesen waere. Haagen hat mehrfach betont, dass Freiwillige da
waren. (R. 9580). Klinische Einrichtungen waeren leicht in Reservelaza-
retten zu finden gewesen. (Haagen, R. 9581).

Schroeder hat bekundet, er habe nicht gewusst, dass Berkatit in laengstens 12 Tagen den Tod zur Folge haben wuerde. (R. 3666). Er konnte sich nicht entsinnen, ob Schaefer ihm gesagt hatte, dass 12-taegiger Genuss von Berkatit den Tod verursache. In der Voruntersuchung hat er dies ausdruecklich in Abrede gestellt. (R. 3668). Er hat ausgesagt, weder Becker-Freyseng noch Schaefer, die beide bei der Nuernberger Tagung im Oktober 1942, auf der der Bericht ueber die Dachauer Kaelteversuche erstattet wurde, zugegen waren, haetten ihm etwas darueber gesagt, als er vorschlug, zur Ausfuehrung der Meerwasserversuche nach Dachau zu gehen. (R. 3669). Schroeder bestritt, den Bericht auf der Tagung am 19. und 20. Mai 1944 ueber die Meerwasserversuche jemals gesehen zu haben. (R. 3662). Trotzdem eine Abschrift dieses Berichtes an Himmler uebersandt wurde, moechte er das Gericht glauben machen, es sei ein blosser Zufall gewesen, dass er ohne den Bericht gesehen zu haben, sich an Himmler um Versuchspersonen gewendet habe. (R. 3669). Er hat ausgesagt, er habe Grawitz gelegentlich einer Zusammenkunft gesagt, er wuensche, die Versuche an wegen ehrenruehriger Handlungen entlassenen Soldaten vollziehen zu lassen. (R. 3670). Angeblich habe Grawitz erwidert, er wolle diesen Wunsch beruecksichtigen. Nach seiner Aussage hat Schroeder Grawitz klar gemacht, die Versuchspersonen muessten Freiwillige sein, mit etwas Zusatznahrung als Belohnung. (R. 3672). Nach seiner Zeugenaussage hat er Grawitz ferner erklart, die Versuche muessten unter Aufsicht der Luftwaffe stehen. In der Voruntersuchung hat er beschworen, nichts ueber die Meerwasserversuche zu wissen, dass die SS sie ihm aus der Hand genommen und er keinen Einfluss darauf gehabt habe. (R. 3610-1). Nach seiner Aussage hatte Schroeder keine Ahnung, dass Auslaender in den Konzentrationslagern gefangen gehalten wurden. Er hat erklart, von der Verwendung von Zigeunern als Versuchspersonen

erst in Berlin im Oktober 1944 nach dem Bericht von Beiglboeck Kenntnis erhalten zu haben. (R. 3676). Er hat ausgesagt, Beiglboeck angewiesen zu haben, Berkatit nur so lange zu verabfolgen, bis die Versuchspersonen erklarten, es nicht mehr vertragen zu koennen. (R. 3677). Er hat zugegeben, dass er Beiglboecks Bericht ueber die Versuche zusammen mit Becker-Freyseng und Schaefer u.a. gehoert habe, er habe ihn aber nicht ganz gehoert, da er die Tagung vorzeitig habe verlassen muessen. (R. 3679-80).

Die von dem Angeklagten Beiglboeck ueber jede der Versuchspersonen gefuehrten Tabellen, die die Verteidigung schliesslich als Beweismaterial vorzulegen gezwungen wurde, nachdem sie versucht hatte, sie durch ihren "Sachverstaendigen", Vollhardt, zu verwenden, ohne diese Dokumente selbst als Beweis vorzulegen, geben einige Einzelheiten ueber die Experimente wieder, obwohl ihre Verlaesslichkeit unter den vorliegenden Umstaenden zweifelhaft ist. (Beiglboeck, Bew. 34, R. 9381). Gewisse Aenderungen in diesen Aufzeichnungen, die zu einer spaeteren Zeit besprochen werden, deuten darauf hin, dass ihnen nicht zu grosse Bedeutung zugemessen werden darf. Die Experimente begannen im August 1944 und dauerten bis Mitte September an. 44 Versuchspersonen wurden verwendet. Den Versuchspersonen 1 bis 6 wurde jegliche Nahrung und jegliches Wasser fuer eine Zeitdauer von $5\frac{1}{2}$ bis $7\frac{1}{2}$ Tagen entzogen. Die darin verzeichnete Dauer der Experimente bezieht sich auf den Morgen des 22. August als Anfangstag, wie von der Verteidigung behauptet wurde, obwohl einiges Beweismaterial darauf hindeutet, dass ihr Beginn am 21. August war. Wenn das Experiment vormittags unterbrochen wurde, wurde kein zusatzlicher Tag oder ein Teil davon gezahlt. Wenn es zwischen Mittag und 17⁰⁰ Uhr unterbrochen wurde, wurde ein halber Tag dazugezahlt, waehrend ein voller Tag zugezahlt wurde, wenn es nach 17⁰⁰ Uhr unterbrochen wurde.

Versuchspersonen 7 bis 10 wurden 1000 ccm Schaefer-Wasser auf die Dauer von 12, 13 bzw. 12 Tagen verabreicht und sie hungerten fuer eine Zeitdauer von 9, 8 bzw. 9 Tagen. Versuchsperson 9 wurde aus Gesundheitsgruenden nicht verwendet. Diese Person war der Entlastungszeuge Mettbach. Den Versuchspersonen 11 bis 18 einschliesslich wurden 500 ccm Meerwasser und die Seenotverpflegung verabreicht, die ungefaehr 2400 Kalorien insgesamt enthielt. Diese Versuche dauerten von 5 bis zu 10 Tagen. Sie hungerten bis zu $6\frac{1}{2}$ Tagen. Mehrere dieser Versuchspersonen, z.B. 11, 13, 17 und 18 mussten sich zwei verschiedenen Versuchen von 8 und 6 Tagen, 6 und 5 Tagen, $7\frac{1}{2}$ und 5 Tagen und 10 und 4 Tagen unterziehen. Den Versuchspersonen 19 bis 25 einschliesslich wurden 500 ccm Berkatit und die Seenotverpflegung gegeben. Diese Experimente dauerten von 5 bis $9\frac{1}{2}$ Tage mit Hungerperioden bis zu $6\frac{1}{2}$ Tagen. Versuchspersonen 19 und 20 mussten sich 2 verschiedenen Experimenten von je 7 und 5 Tagen unterziehen. Den Versuchspersonen 26 bis 30 wurden 1000 ccm Berkatit und die Seenotverpflegung verabreicht. Diese Experimente dauerten von 5 bis zu $9\frac{1}{2}$ Tagen mit Hungerperioden bis zu $6\frac{1}{2}$ Tagen. Die Versuchsperson 29 musste sich 2 Experimenten von 8 und 5 Tagen unterziehen. Den Versuchspersonen 31 und 32 wurden 1000 ccm Meerwasser fuer 8 bzw. 6 Tage verabreicht. Die Versuchsperson 31 musste sich einem weiteren Versuch von 5 Tagen unterziehen. Der Versuchsperson 33 wurden 500 ccm Berkatit 6 Tage lang verabreicht, der Versuchsperson 34 1000 ccm Schaefer-Wasser auf die Dauer von 12 Tagen, den Versuchspersonen 35 bis 37 einschliesslich, 39, 41 und 42 wurden 500 ccm Meerwasser auf eine Zeitdauer von 4 bis 6 Tagen verabreicht; den Versuchspersonen 38, 40 und 43 wurden 1000 ccm Meerwasser auf eine Dauer von 6, 5 und 6 Tagen verabreicht und der Versuchsperson 44 wurde Schaefer-Wasser 12 Tage lang verabreicht.

Die klinischen Tabellen ueber die Experimente geben uns auch das Alter der Versuchspersonen an.

Versuchspersonen 17, 19, 20, 35, 37, 40 und 43 waren alle unter Einundzwanzig. Versuchsperson 40 war 16 Jahre alt; Versuchspersonen 17, 19 und 37 waren 17 Jahre; Versuchsperson 35 war 18, Versuchsperson 43 war 19 und Versuchsperson 20 war 20 Jahre alt. Es ist ueberfluessig zu erwahnen, dass kein Versuch gemacht wurde, die Zustimmung der Eltern oder Vormuender dieser Minderjaehrigen einzuholen.

Der Angeklagte Beiglboeck sagte aus, dass er sich Ende Juni 1944 in Berlin meldete, wo ihm Becker-Freyseng mitteilte, dass er die Meerwasser- versuche in Dachau machen solle. Er sprach auch mit Schroeder in Verbindung mit diesen Versuchen. Er sagte, er habe versucht, davon wegzukommen, da er eine Abscheu davor hatte, in einem Konzentrationslager zu arbeiten. Er weigerte sich nicht, diese Versuche vorzunehmen, da er fuerchtete, wegen Befehlsverweigerung zur Verantwortung gezogen zu werden. (R. 8828-9). Becker-Freyseng haette ihm gesagt, dass es der Zweck der Experimente sei, erstens festzustellen, ob Berkatit brauchbar ist, zweitens die Schaefer- methode zu erproben und drittens festzustellen, ob man lieber ganz ohne Meerwasser auskommen oder kleinere Quantitaeten davon trinken sollte. (R. 8832). Er gab an, dass ihm die leitenden Persoenlichkeiten in Dachau gesagt hatten, dass die Zigeuner, die bei den Versuchen verwendet werden sollten, als "asozial" gefangen gehalten wurden. Beiglboeck betrachtete sich anscheinend als Sachverstaendigen hinsichtlich asozialer Personen. Er sagte aus, es sei seine Auffassung gewesen, eine ganze Familie koennte als asozial klassifiziert werden, obwohl dies "nicht ausschliesse, dass in diesen Familien eine ganze Menge von Mitgliedern sind, welche sich ihr ganzes Leben niemals durch eine gesetzwidrige Handlung auffaellig machen". (R. 8848).

Er sagte aus, er habe die Versuchspersonen zusammengerufen und ihnen gesagt, um was es sich bei dem Versuch handelte

und sie gefragt, ob sie daran teilnehmen wollten. (R. 8849). Er sagte ihnen nicht, wie lange die Experimente dauern würden. Er sagte ihnen auch nicht, dass sie sie jederzeit abbrechen könnten. Er sagte aus, dass er verlangen musste, dass sie eine gewisse Zeit dursten. Die Entscheidung, ob sie von dem Experiment befreit werden würden, lag bei ihm. (Beiglboeck, R. 8850). Er sagte aus, dass die Versuchspersonen im Verlauf der Experimente bei einer Gelegenheit revoltierten, da sie die ihnen versprochene Verpflegung nicht erhalten hatten. Sie erhielten mehrere Tage lang keine Verpflegung wegen Verzögerung in der Belieferung. Die Versuchspersonen wurden während der Versuche in einem Raum eingeschlossen. Beiglboeck sagte aus:

"Es wäre sogar notwendig gewesen, dass sie noch viel intensiver eingeschlossen worden wären, denn dann hätten sie nicht die Gelegenheit gehabt, sich daneben Wasser zu verschaffen." (R. 8864).

Er gab an, dass die Gefahrenzone bei Genuss von 500 ccm Meerwasser in ungefähr sieben Tagen erreicht würde, während bei täglichem Genuss von 1000 ccm Meerwasser das in $4\frac{1}{2}$ Tagen der Fall sein würde. (R. 8876-7). Man vergleiche die viel längere Zeitdauer der weiter oben beschriebenen Experimente.

Der Anklagebehörde war es nach einer Prüfung der im Verlauf der Experimente geführten Tabellen sofort klar, dass eine Reihe von Änderungen an ihnen vorgenommen worden waren. Diese Aufzeichnungen waren vor der Aussage von Vollhardt, dessen Sachverständigengutachten sich teilweise auf diese Aufzeichnungen stützte, in ausschliesslichem Gewahrsam des Verteidigers. In einer grossen Anzahl von Fällen waren die Namen der Versuchspersonen aus den Tabellen ausradiert worden, offensichtlich im Bestreben, es unmöglich zu machen, diese Personen ausfindig zu machen, damit sie als Zeugen aussagen könnten.

Eine Pruefung der Tabellen ergibt weiterhin, dass das Schlussgewicht der Versuchspersonen auf den Tabellen in einer von den Eintragungen der uebrigen aufzeichnungen verschiedenen Tintenschattierung eingetragen worden war. In einigen Faellen war dieses Gewicht ueber die urspruenglichen Bleistiftnotizen geschrieben, z.B. auf Tabelle C-2 wurde ueber das in Bleistift eingetragene Schlussgewicht von 62 kg $64\frac{1}{2}$ kg mit Tinte daruebergeschrieben. Beiglboeck gab zu, dass die roten Pfeile, die angeblich den Beginn der Versuche andeuten sollten und die gewoehnlich unter dem Datum 22. August erscheinen, von ihm im Jahre 1945 gemacht wurden, lange nachdem die Experimente beendet waren. (R. 8909). In den Tabellen 1-32 befindet sich ein Rotzeichen unter dem Datum des 21. August, was andeuten wuerde, dass die Experimente wahrscheinlich an diesem Datum begannen. Gewisse Notierungen in deutscher Kurzschrift befinden sich auf der Rueckseite der Tabelle C-23. Beiglboeck gab zu, dass er selbst diese Notizen machte. (R. 8970). Beiglboeck sagte aus, dass

"Wir (Beiglboeck und sein Verteidiger) sind zu jeder Zeit darueber/~~einig~~ gewesen, dass diese Tafeln und Kurven so vorgelegt werden sollten, wie wir sie erhalten haben."
(R. 8921).

Er gab wiederholt an, dass er auf diesen Tafeln in Nuernberg keine Radierungen vorgenommen habe. (R. 8922, 8973, 8975-6). Als die Beweise ihm keine andere Wahl mehr liessen, gab Beiglboeck schliesslich zu, an den Notizen auf der Rueckseite der Tabelle C-23 in Nuernberg Aenderungen und Radierungen vorgenommen zu haben. (R. 8978). Diese Aufzeichnungen geben einen klinischen Bericht ueber eine der Versuchspersonen, die gefaehrlich krank war. Folgendes ist die Wiederherstellung der urspruenglichen steno-graphischen Notizen, soweit sie entziffert werden konnten:

"Der Durst nimmt schwer ertraegliche Formen an. Patient liegt apathisch, ganz bewegungsarm, mit halbgeschlossenen Augen da. Er

nimmt keinen Anteil an seiner Umgebung. Er bittet nur, wenn er aus seinem benommenen Zustand aufwacht, um Wasser, (Halbe Zeile ausradiert):

"Das Aussehen ist sehr schlecht und verfallen, der Allgemeinzustand ist besorgniserregend.

"Die Atmung ist flacher, mühsam, mässig frequent.

"Atemzüge 25 in der Minute.

"Die Augen sind tief haloniert, der Hautturgor stark herabgesetzt.

"Die Haut trocken, die Zunge ganz trocken, weisslicher Belag, in der Mitte ziemlich frei.

"Die Schleimhaut des Mundes und die Lippen trocken, letztere borkig belegt. Lunge geringe sehr trockene Bronchitis Grenze u/VI-XII, verschärft, vesikulär atmen.

"Herztöne sehr leise, kaum hörbar, Puls schwächer gefüllt. Gefässe stärker wandverdickt, Frequenz 72, Leber $2\frac{1}{2}$ - 3 QF eher weich, mässig druckempfindlich Milz perkutorisch, geringgradig vergrössert.

"Muskel hypotonisch, Gelenke überstreckbar. Waden leicht druckempfindlich, angedeutete Querswulstung, starke Längswulstung. Romberg -- Reflexe -- BDR Babinski negativ, Rife'sches Phänomen. Oppenh. neg. Ross. Bulbostomus schlecht, Bulbus Reflex - (Unterbrechung)".

Beiglboeck hatte in der letzten Zeile des ersten Absatzes das Wort "schlaftrig" fuer das Wort "benommen" eingesetzt. Im selben Absatz war eine halbe Zeile vollkommen ausradiert und konnte nicht entziffert werden. Beiglboeck gab vor, er koenne sich nicht erinnern wie sie lautete, eine offensichtliche Luege, da sie ja aus Furcht vor der Wahrheit ausradiert wurde. Im letzten Satz des zweiten Absatzes aenderte Beiglboeck die Notizen, sodass sie jetzt lauten: "Allgemeinzustand ist nicht besorgniserregend". Auf der ersten Zeile des achten Absatzes setzte Beiglboeck das Wort "kaum" fuer "schlecht" ein.

Die Notiz "Romberg plus plus" bedeutet, dass die Versuchspersonen "unsicher" stehen konnte. (Beiglboeck, R. 8982). Er sagte, dass sich diese Notizen eher auf die Versuchsperson Nr. 30 als auf Versuchsperson Nr. 23 bezogen. (R. 8984).

Beiglboeck sagte aus, dass er keine weiteren Aenderungen oder Radierungen in Nuernberg vornahm. (R. 8992). Dass Beiglboecks Zeugenaussagen als Ganzes vollkommen unzuverlaessig sind, wird durch die Tatsache bewiesen, dass er auch auf der Rueckseite der Tabelle A-29 Radierungen in den Notizen vornahm. Soweit sie entziffert werden koennen lauten diese Notizen folgendermassen:

"Der Durst stellt sich wieder heftig ein. P. legt sich auf den Ruecken und waelzt sich herum. Bekommt auch ----- einen typisch strect. org. rigiden Anfall m. schwer. tetanischem Symptom, wie es sich aus seiner ----- Symptome. ----- Er wird im Hinblick darauf, dass er vor 2 Tagen ziemlich viel Wasser getrunken hat ----- $\frac{1}{2}$ plus $\frac{1}{2}$ l gewesen sein, aus dem Versuch genommen.

"3.9. Wieder in Versuch gen.

"5.9. Klagt bereits ueber sehr st. Durst.

"6. Durst gef. sehr heftig. Zunge trocken und belegt. Foetor ex ore. Haut trocken und heiss. Leber deutlich vergr. Refl. lebhaft, Gef. wandverdickt. Musk. uebererregb.

"7.9. Psych. Zustand hat sich geaendert. Somnolenz. Zunge trocken. Musk. fuehlt sich steif an. betr. Musk. schw. mit atakt. Ersch. ----- Rbg. pos. Gef. noch ----- Puls schlecht gefuehlt. Sehr bradycard. Atmung besch. Allgem. Zust. (naechstes Mort ausradiert) Leber stark vergr."

In Bezug auf die Versuchsperson Nr. 25 sagte Beiglboeck aus, dass dieser Mann mehrmals gerontet und augenscheinlich akute Bronchitis hatte. Sein Fieber stieg bis zu 39,8 Celsius. (R. 8998). Er klagte ueber Magenbeschwerden vor dem Beginn des Experiments. (R. 9000).

Als Beiglboeck am 15. September Dachau verliess, war er noch krank. (R. 9002). Versuchsperson Nr. 39 war ein 49 Jahre alter Mann. Ihm wurden vier Tage lang, naemlich vom 1. September bis zum 4. September, an dem das Experiment um 19³⁰ Uhr abgebrochen wurde, 500 cdm Berkatit gegeben. Als Beiglboeck aussagte, dass der Mann nur drei Tage am Experiment teilnahm, ging er mit der Wahrheit mit typischer Sparsamkeit um. (R. 9010). Er gab zu, dass er zahlreiche Lumar- und Leberpunktionen an den Versuchspersonen vornahm. (R. 8933).

Trotz Beiglboecks Bemuehungen es zu verhueten, konnte eine Anzahl der Versuchspersonen sich Trinkwasser verschaffen. Beiglboeck und sein Verteidiger stellten sich auf den unsinnigen Standpunkt, dass dies seine Schuld im gewissen Grade mindere. Es ist schwer zu verstehen, wie diese Selbsthilfe der Versuchspersonen, die den meisten von ihnen zweifellos das Leben rettete, als strafmildernder Umstand vorgebracht werden kann, wo Beiglboeck doch alles tat, um es gerade zu verhindern. Tatsaechlich wusste er noch nicht einmal, dass die Versuchspersonen der ersten Gruppe, d.h. von 1-32, in der Lage gewesen waren, sich Trinkwasser zu verschaffen. Er sagte aus:

"Ich moechte ueberhaupt bemerken, dass ich gerade in der zweiten Versuchsgruppe, wo ich mich schon infolge der Erfahrungen aus der ersten Versuchsgruppe mit den verschiedenen Schlichen auskannte, mich dementsprechend verhalten konnte und daher den Versuch nicht weitergefuehrt habe. Wenn ich den Versuch ~~un~~ und fuer sich weiterfuehren haette wollen, haette ich es auch in der zweiten Versuchsgruppe tun ~~muessen~~. Ich habe das nur in der ersten Versuchsgruppe getan, weil mir die Ursache des Gewichtsstillstandes zunaechst nicht klar war.

Dannach sagt Beiglboeck im Grunde genommen, dass, obgleich er nicht wusste, dass die Versuchspersonen sich Trinkwasser beschafften und obgleich er seine Experimente

weit ueber den ihm bekannten Gefahrenpunkt hinaus fortsetzte, er freigesprochen werden muss, weil einige der Versuchspersonen trotz seiner Bemuehungen es zu verhueten, heinlich Trinkwasser tranken.

Der Sachverstaendige, Dr. Ivy war Zeuge fuer die Anklagebehoerde in Bezug auf die Meerwasserexperimente. Er nahm selbst an einem dreitaegigen Experiment teil, waehrend dem er 2.400 ccm Meerwasser einnahm und dazu 108 Kalorien taeglich in der Form von Suessigkeiten. Er litt unter ausgesprochener Entwaesserung und war nahe daran, Halluzinationen zu bekommen. Ein zweiter Freiwilliger bei diesen Experimenten nahm an wenig ueber einem Tag 2.000 ccm ein und bekam derartiges Erbrechen und Diarrhoe, dass das Experiment abgebrochen werden musste. (R. 9038-9). Man vergleiche damit die Menge des von Beiglboecks Versuchspersonen getrunkenen Meerwassers. Wegen wissenschaftlicher Unterlagen ueber die Wirkung des Meerwassers auf den menschlichen Koerper siehe Protokoll S. 9039-41. Dr. Ivy wies auf bestimmte Widersprueche in der Zeugenaussage Vollhardts, des Sachverstaendigen fuer die Verteidigung, hin. Dr. Ivy bezeugte, dass diese Experimente zur Feststellung der Trinkbarkeit des nach der Berka-Methode behandelten Meerwassers voellig unnuetig waren. In einer halben Stunde haette das auf chemischem Wege festgestellt werden koennen. (R. 9043-4). Er erklarte, dass 1.000 ccm Meerwasser oder Berkatit taeglich in weniger als 12 Tagen den Tod herbeifuehren wuerden. Bei 500 ccm taeglich und unter idealen Bedingungen wuerde der Tod zwischen dem 8. und 14. Tag eintreten. (R. 9045). Die Erklaerung im Bericht ueber die Tagungen vom 19. und 20. Mai 1944, dass bei Genuss von Berka-assor mit Gesundheitsschaedigungen innerhalb spaetestens sechs Tagen, und mit dem Tode innerhalb spaetestens zwouelf Tagen zu rechnen sei, ist im wesentlichen richtig. (R. 9044).

Dieses Dokument zeigt, dass das Experiment fuer eine Dauer von 12 Tagen geplant war. Dr. Ivy sagte aus, es sei unnoetig, laenger als drei bis vier Tage Experimente auszufuehren, um zu zeigen, dass Berkatit genau so entwaessernd wie Meerwasser ist. (R. 9046). Er erklarte, diese Experimente haetten nur dann Sinn, wenn festgestellt werden sollte, wie lange Menschen mit 500 ccm oder 1000 ccm Meerwasser taeglich am Leben bleiben koennten. Es ist klar, dass der Versuchsplan mit Todesfaellen rechnete. (R. 9046-7).

Dr. Ivy sagte aus, dass nach seinem Studium der waehrend des Verlaufes der Experimente angefertigten Tabellen zu schliessen, die Beobachtungsperiode nach den Experimenten zu kurz war, um festzustellen, ob sich bei den Versuchspersonen ~~spaeater~~ auftretende Schaeden zeigen wuerden. (R. 9049). Die Ergebnisse der Versuche sind wissenschaftlich nicht zuverlaessig. (R. 9051).

Dr. Ivy wies darauf hin, dass die Tabelle der Versuchsperson 3 bewies, dass sie bei mehreren Gelegenheiten vor Schwaechen nicht stehen und ihr Blutdruck nicht gemessen werden konnte. (R. 9052). Das war eine der Versuchspersonen in der Hunger- und Durstgruppe. Am 29. August erhielt sie eine Coronin- und am 30. und 31. August eine Strychnin-Einspritzung. Diese beiden Drogen sind Herzstimulation und das klinische Bild zeigt, dass die Versuchsperson krank oder durch die Experimente merklich entkraeftet war. (R. 9053). Acht bis vierzehn Tage ist bei starken Maennern die Zeit, die sie unter Hunger und Durst bei idealen Bedingungen am Leben bleiben. (R. 9053).

Dr. Ivy bezeugte, dass nach dem Ergebnis seines Studiums der klinischen Aufzeichnungen, die Versuchspersonen 3, 14, 36, 37, 39, 31, 23 (oder 30), 25, 28 und 29 waehrend der Experimente krank waren.

Die Versuchspersonen 3, 23 (oder 30) und 25 waren besonders krank und es besteht die Moeglichkeit, dass sie infolge der Experimente dauernden Schaden davontrugen oder starben. (R. 9058-9).

Die Versuchsperson, auf die sich die Vermerke auf der Rueckseite der Tabelle C-23 bezogen, war sehr krank und lag im Koma. (Ivy, R. 9061). Die von dem Angeklagten Beiglboeck vorgenommenen Aenderungen in den stenographischen Notizen lassen die Versuchsperson in einem besseren Zustand erscheinen, als sie tatsaechlich war. (Ivy, R. 9062-3). Der in diesen Notizen erwaehte Bulbusreflex bedeutet das Pressen des Augapfels, um die Schwere des Komas festzustellen. "Tonus der Augapfel ist schlecht" zeigt, dass der Blutdruck niedrig und die Zirkulation schlecht war. Das ist ein schlechtes Prognostikon und koennte bevorstehenden Tod bedeuten. (R. 9065). Diese Notizen zeigen, dass der Zustand der Versuchsperson gefaehrlich war und sofortige Anwendung einer Heiltherapie erforderte. Die Nachbeobachtungsperiode bei der Versuchsperson 23 dauerte vier Tage und bei der Versuchsperson 30 fuenf Tage. Das war voellig ungenuegend. Diese Versuchsperson haette sterben koennen, wenn sie nicht richtig gepflegt worden waere. (Ivy, R. 9065-6).

Dr. Ivy sagte aus, dass von den 44 Versuchspersonen 13 bei einer oder mehreren Gelegenheiten nicht stehen konnten, Fieber hatten, Herzstaerkemittel brauchten oder bewusstlos waren, und zwar die Versuchspersonen 3, 4, 14, 21, 23, 25, 28, 29, 32, 36, 37, 39 und 40. (R. 9067-8). Die eidesstattliche Erklaerung Bauers, dass er durch gewisse Elektrokardiogramme, die er von den Versuchspersonen machte, Symptome von Herzschaechte entdeckte, wird von Ivy bestaetigt. (Ivy, R. 9069).

Nach Dr. Ivys Ansicht ist jemand, der sich einem Experiment freiwillig unterzieht kein Freiwilliger mehr,

wenn er waehrend des Verlaufs des Experimentes, nachdem er um Entlassung gebeten hat, damit fortzufahren gezwungen wird. (R. 9076-7).

Das Zeugnis des Sachverstaendigen fuer die Verteidigung, Vollhardt, ist vollkommen unzuverlaessig. Obgleich Vollhardt mit diesen Versuchen in Dachau nicht das Geringste zu tun hatte, sprach er als Zeuge verschiedentlich in stark parteiischer Weise ueber Dinge, von denen er unmoeglich Kenntnis gehabt haben kann. Er bestand z.B. darauf, dass die Versuchspersonen in Dachau sich freiwillig gemeldet haetten. Er bezeugte, dass Beiglboeck vor dem Beginn der Experimente drei Personen wegen ihres koerperlichen Zustandes ausschied und dass sich sofort drei andere freiwillig meldeten. (R. 8457-8). Sogar Beiglboeck stellte keine solche Behauptung auf. Er sagte, er halte es fuer "ganz ausgeschlossen, dass die Versuchspersonen das noetig hatten, Wasser aus den Scheuerlappen zu trinken, denn es standen ja immer Luftschutzeimer mit Wasser da. Wenn sie also trinken wollten, brauchten sie nur den Kopf hineinzustecken." (R. 8467). Es ist mehr als sonderbar, dass Vollhardt dies wissen sollte, wo er doch nie in Dachau war. Er hielt es fuer ganz unmoeglich, dass irgendeine der Versuchspersonen Kraempfe hatte, obgleich Versuchsperson 29 nach den oben angefuehrten Notizen nachweislich Kraempfe und organische Anfaelle hatte. Obgleich Vollhardt zugab, dass die klinischen Notizen zeigten, oene Anzahl der Versuchspersonen hatte sich heimlich Trinkwasser beschafft und obgleich Beiglboeck zugab, dass einige der Versuchspersonen ihren Urin wegschuetteteten (R. 8865), war Vollhardt ganz sicher, dass die Versuchspersonen alles Freiwillige waren.

Vollhardt studierte die klinischen Notizen nicht selbst, sondern uebergab sie zur Auswertung einem 25jaehrigen Assistenten.

(R. 8432). Er gab zu, dass er sich auf Beschreibungen der Experimente stuetzte, die seit dem Prozessbeginn von Becker-Freyseng und Beiglboeck gemacht worden waren. (R. 8438). Weder Vollhardt noch sein Assistent hatten fruehere Erfahrungen ueber Meerwasserprobleme. (8451). Vollhardt bezeugte, dass er auf Anregung des Verteidigers an fuenf seiner aerztlichen Assistenten ein freiwilliges Experiment ausfuehrte. Seine Versuchspersonen tranken taeglich 500 ccm nachgemachtes Meerwasser und erhielten 1600 Kalorien pro Tag. (R. 8440-2). Vier der Versuchspersonen setzten das Experiment 5 Tage und einer 6 Tage lang fort. Die letztere Versuchsperson trank am letzten Tag weitere 500 ccm. Der Zweck dieser Experimente war, festzustellen, was jemand, der sich einem Meerwasserexperiment unterzieht, leidet. (R. 8443). Vollhardts Versuchspersonen arbeiteten in der Klinik weiter, wenn sie auch im selben Zimmer assen und schliefen. Er weiss nicht, ob sie ins oertliche Kino gingen oder waehrend des Verlaufs der Experimente die Klinik zu anderen Zwecken verliessen. (R. 8445). Vier der Versuchspersonen brachen am 5. Tage ab, weil sie eine Verabredung mit einer jungen Dame hatten. (R. 8450). Er sagte aus, dass seine Versuchspersonen an den ersten zwei Tagen keinen starken Durst litten, dass der Durst am dritten Tag unangenehm wurde, am vierten Tag sich verminderte und am fuenften Tag sehr stark wurde. Die Versuchsperson, die sechs Tage lang aushielt, sagte, dass sie sehr wenig Unterschied spuerte. Alle arbeiteten waehrend des Experiments weiter. (R. 8453). Es ist offensichtlich, dass sich dieses Experiment auf keine Weise mit denen in Dachau vergleichen laesst. Waehrend einige der Dachauer Versuchspersonen bei vielen Gelegenheiten zu schwach waren, um ihren Blutdruck gemessen zu bekommen, konnten Vollhardts Versuchspersonen ihre Arbeit fortsetzen.

Während Vollhardts Versuchspersonen geschulte Aerzte waren, die des Interesses halber an den Experimenten teilnahmen, jederzeit ausscheiden konnten und während des Experiments ihren eigenen Dingen nachgehen durften, fehlte bei den Dachauer Experimenten jeder einzelne dieser wichtigen Faktoren. (R. 8479). Die armen Zigeuner durften nicht ausscheiden, wenn es ihnen gerade passte. Sie wussten nicht, wie lange die Experimente dauern sollten, sie hatten keine Betätigungsfreiheit, sie hatten kein Interesse an den Experimenten. Vollhardts Achtung fuer diese Zigeuner geht klar aus seiner Erklarung hervor: "Solche Leute finden ja immer irgendwo eine Moeglichkeit zum Betruegen." (R. 8468). Dass Vollhardt von den Experimenten, ueber die er Zeugnis abzulegen vorgab, nichts wusste, geht aus seiner Aussage bezueglich ihrer Dauer hervor. Er erklarte z.B., dass in der 500 ccm Berkatit-Gruppe die Versuche nach sechs Tagen abgebrochen wurden. (R. 8462). Die klinischen Tabellen, die Vollhardt in Besitz hatte und auf die seine Zeugenaussage sich angeblich stuetzte, zeigen, dass die Dauer der Versuche in dieser Gruppe sich bis auf neuneinhalb Tage erstreckte und mit Ausnahme von zwei Faellen stets sechs Tage ueberschritt. Er sagte aus, dass die Meerwassergruppe auch nach sechs Tagen aufhoerte, waehrend die klinischen Tabellen zeigen, dass einige von ihnen bis zu zehn Tagen dauerten. In der Hunger- und Durstgruppe hoerten sie, nach seiner Aussage, nach vier bis fuenf Tagen auf, waehrend die Tabelle doch zeigt, dass sie fuenfeinhalb bis siebeneinhalb Tage dauerten. (R. 8462-3). Nein, Vollhardts Zeugenaussage waere in der Tat ein unzuverlaessiger Ersatz fuer die Krankentabellen gewesen.

Die Aussage der Belastungszeugen beweist, dass die Meerwasserexperimente Mord und

Qualen zeitigten. Der oesterreichische Zeuge Vorlicek, dem im Jahre 1939 wegen "Vorbereitung zum Hochverrat" der Prozess gemacht und der zu vier Jahren Zuchthaus verurteilt worden war, wurde im Maerz 1944 nach Dachau ueberstellt und arbeitete waehrend der Meerwasserexperimente auf der Versuchsstation als Hilfspfleger. (R. 9383-5). Einer der Nachtpfleger, der einschlief, wurde in eine Strafkompagnie versetzt. (R. 9386). Zumindest eine der Versuchspersonen hatte einen heftigen Krampfanfall. (R. 9386). Bei einer Gelegenheit verschuettete Vorlicek etwas Trinkwasser auf den Boden und liess den Lappen liegen, den er beim Aufwischen benutzt hatte. Die Versuchspersonen ergriffen den schmutzigen Lappen, um das Wasser auszusaugen. Beiglboeck drohte, er werde, wenn das wieder vorkomme, ihn in das Experiment stecken. (R. 9387). Die Versuchspersonen hatten sich nicht freiwillig gemeldet. Vorlicek sprach mit einigen der tschechischen Versuchspersonen, die ihm erzaelhten, sie seien in einem anderen Lager aufgefordert worden, sich zu einem guten Aussenkommando freiwillig zu melden, und erst als sie nach Dachau kamen, fanden sie heraus, dass sie sich den Experimenten unterziehen sollten. (R. 9388, 9392). Er bezeugte, dass die Versuchspersonen tschechische, polnische, ungarische, oesterreichische und deutsche Staatsangehoerige waren. (R. 9388). Einige der Versuchspersonen waren ziemlich krank, und er hatte den Eindruck, sie wuerden nicht mehr lange leben. Ungefuehr drei Monate nach den Experimenten traf er eine der Versuchspersonen namens Franz; der erzaehte ihm, dass eines der Opfer der Experimente bereits gestorben sei. (R. 9390).

Der Zeuge Laubinger, der die Versuchsperson Nr. 7 war, sagte aus, dass er im Maerz 1943, weil er Zigeuner war, von der Gestapo verhaftet wurde. Er wurde im Fruehjahr 1943, ohne dass er wegen irgendeines Verbrechens

vor einen Richter gestellt worden war, nach Auschwitz gebracht. (R. 10199). Spaeter wurde er auf einige Wochen nach Buchenwald ueberstellt und, waehrend er dort war, zusammen mit anderen Haeftlingen gefragt, ob er sich fuer ein Saeuberungskommando in Dachau freiwillig melden wolle. Die Haeftlinge hatten den Eindruck, dass die Verhaeltnisse in Dachau besser seien, und so willigten sie ein zu gehen. Nach ihrer Ankunft in Dachau wurden sie aerstlich untersucht, geroentgt und in die Versuchsstation gebracht. (R. 10200). Beiglboeck sagte ihnen, sie sollten an dem Meerwasserexperiment teilnehmen und das war das erste Mal, dass sie davon hoerten. (R. 10201). Laubinger identifizierte Beiglboeck auf der Anklagebank. (R. 10202). Er sagte Beiglboeck, er habe zwei Magenoperationen gehabt, aber Beiglboeck erlaubte ihm nicht, sich auszuschliessen. Beiglboeck fragte die Versuchspersonen nicht, ob sie sich freiwillig melden wollten, und sie meldeten sich auch nicht freiwillig. (R. 10203). Laubinger, der in der Schaefer-Gruppe war, bekam 12 Tage lang Schaefer-Wasser und fastete mindestens neun Tage lang. (Siehe Tabelle 7). Er wurde so schwach, dass er kaum aufstehen konnte. Die Versuchspersonen bekamen nur waehrend des ersten Tages nach dem Versuch besondere Kost. Beiglboeck hatte ihnen Extrarationen und leichte Arbeit versprochen, aber diese Versprechungen wurden nicht gehalten. (R. 10205). Eine der Versuchspersonen versuchte die anderen zu ueberreden, das Trinken des Meerwassers zu verweigern. Beiglboeck drohte, ihn wegen Sabotage aufhaengen zu lassen. Die Versuchsperson erbrach spaeter nach der Einnahme von Meerwasser, worauf Beiglboeck ihm das Meerwasser durch eine Magenroehre beibringen liess. (R. 10207). Eine andere Versuchsperson wurde ans Bett gebunden und ihr Heftpflaster ueber den Mund geklebt, weil sie sich etwas Trinkwasser und Brot verschafft hatte. Die meisten der Versuchspersonen waren tschechische, polnische und russische Staatsangehoerige und ungefaehr acht waren Deutsche.

(R. 10208). Eine Anzahl der Versuchspersonen hatten Anfaelle von Delirium, zwei wurden in das Hospital geschafft und Laubinger sah sie nicht mehr wieder. (R. 10209).

Der Zeuge Hollenreiner bestaetigte in allen wichtigen Punkten Laubingers Aussage. Er bezeugte, dass die Versuchspersonen sich nicht freiwillig gemeldet hatten. (R. 10509), und dass die meisten davon Nichtdeutsche waren. (R. 10513). Hollenreiner sagte ferner aus, dass Beiglboeck keinerlei Sorge fuer die Versuchspersonen an den Tag legte, sondern im Gegenteil, sie zu erschiessen drohte, wenn sie sich erregten. (Es duerfte wohl kaum notwendig sein, bei Versuchen an Freiwilligen einen Revolver zu tragen). Er hatte kein Mitleid mit ihnen, als sie vor Hunger und Durst delirierten.

(R. 10510). Der Zeuge Hollenreiner griff Beiglboeck leider vor Gericht taetlich an. Diese impulsive Tat des Zeugen spricht jedoch staerker als Baende von Aussagen fuer die unmenschliche Behandlung der Versuchspersonen und die Leiden, die sie infolge der Versuche erduldeten. Wir koennen versichert sein, dass Hollenreiner sich nicht freiwillig gemeldet hatte. Als Hollenreiner sein Benehmen dem Gericht erklaerte, bezeichnete er Beiglboeck als "Moerder".

(R. 10233-4).

Der Zeuge Tschofenig wurde im November 1940 nach Dachau gebracht und blieb dort bis zum April 1945. Er war politischer Gefangener. (R. 9331). Er ist gegenwaertig Mitglied des Kaerntner Landtags in Oesterreich. (R. 9332). Vom Sommer 1942 bis zum Ende war er Leiter der Roentgenstation in Dachau. (R. 9334). Er untersuchte den Zigeunertransport im Sommer 1944 vor dem Beginn der Experimente und schied eine Anzahl als ungeeignet aus. (R. 9334-5). Er sah Beiglboeck

mehrmals im Lager und in der Roentgenstation. (R. 9335). Waehrend der Experimente wurden eine Anzahl kranker Versuchspersonen zur Untersuchung nach der Roentgenstation gebracht. Ihr koerperlicher Zustand hatte sich infolge der Experimente bedeutend verschlechtert. Er hoerte, dass eine der Versuchspersonen einen Wahnsinnsanfall hatte. (R. 9336). Nach der Beendigung der Experimente wurden drei der Versuchspersonen nach der Station fuer innere Krankheiten gebracht. Einer lag auf einer Bahre und konnte nicht gehen. Alle wurden von Tschofenig geroentgt. (R. 9338). Es war ueblich, dass die Resultate der Roentgenuntersuchungen an die Krankenhausstationen geschickt wurden, wo sich die Haeftlinge befanden. Tschofenig erhielt einen offiziellen Befehl von der Station fuer innere Krankheiten, dass er ueber den Patienten auf der Bahre keinen Bericht zu erstatten brauche, da er zwei Tage nach seiner Einlieferung gestorben sei. Der Stationsarzt meldete, dass der Tod infolge der Meerwasserexperimente eingetreten sei. Tschofenig pruefte die Totenscheine selbst. (R. 9339).

Sogar Dr. Steinbauer, der Verteidiger Beiglboecks, hat sich augenscheinlich ueberzeugen lassen muessen, dass diese Experimente Qualen bereiteten. Er sagte bei seiner Erklaerung, warum er einen Teil eines Dokumentes zurueckgehalten habe, deren Vorlage das Gericht angeordnet hatte: "Ich moechte ueber die Versuchspersonen, die Schreckliches erlitten, nichts Schlechtes sagen." (R. 9378).

F. Hoehen- und Kaelteversuche (Anklageschrift, Ziffer 6 (A) und (B)).

Schroeder hat ausgesagt, dass er erst nach Kriegsende von den Hoehenversuchen Ruffs, Rombergs und Raschers gehoert habe. (R. 3612). Er hat gesagt, dass er ueber diese

Versuche niemals mit Ruff, Romberg oder Becker-Freyseng gesprochen habe. (R. 3613). Er hat ausgesagt, dass er von den Kaelteversuchen im Februar oder Maerz 1943 erfahren habe, als er eine Abschrift des Berichtes ueber die Nuernberger Kaeltetagung im Oktober 1942 erhielt, auf der Holzloehner und Rascher ueber die Versuche gesprochen hatten. (R. 3615). Er moechte das Gericht glauben machen, dass er niemals eine Abschrift des von Holzloehner, Finke und Rascher verfassten, erschöpfenden Schlussberichtes ueber die Kaelteversuche erhalten habe. (R. 3615). Man kann sich nur schwer jemanden vorstellen, der mit groesserer Wahrscheinlichkeit diesen Bericht mit seinen wichtigen Schlussfolgerungen erhalten haette, wenn nicht die wenigen Luftflottenaerzte, zu denen Schroeder damals gehoerte. Schroeder selbst hat die Warmbadmethode zur Behandlung von Erfrierungen als die viertwichtigste militaermedizinische Entdeckung waehrend des Krieges in Deutschland bezeichnet. (R. 3616). Aber sein Leugnen ist verstaendlich, da der Schlussbericht eine erschöpfende Beschreibung der Versuche, einschliesslich der Todesfaelle, gibt. (NO-428, Ankl.Bew. 91, R. 252).

Schroeder hat ausgesagt, dass er nicht gewusst habe, dass Holzloehner, Finke und Rascher bei diesen Versuchen zusammenarbeiteten. (R. 3625). Aber der Bericht ueber die Kaeltetagung, den er zugibt erhalten und gelesen zu haben, besagt dies ausdruecklich. (NO-401, Ankl.Bew. 93, R. 309). Obwohl er bezeugte, dass er nicht davon gewusst habe, dass Menschen-Versuche damit verbunden waren, macht dieser Bericht dies selbst fuer den Laien vollkommen klar. (R. 3626-9). Die berichteten klinischen Einzelheiten machen es absolut unmoeglich, dass irgendein Arzt auch nur einen Augenblick der Meinung sein konnte, dass es sich hier nicht um Versuche handelte. Es waere doch schwierig zu verstehen, wie rektale Temperaturen bei einem Flieger in Seenot genau geprueft werden konnte. Raschers

war
Vortrag/teilweise wie folgt zusammengefasst:

"Ergaenzend zu den Mitteilungen Holzloehners wird ueber Beobachtungen berichtet, wonach alleinige Abkuehlung der Nackengegend auch bei mehrstuendiger Dauer nur geringer (bis zu 1° C) Senkungen der Koerpertemperatur ohne Ver-
aenderung des Blutzuckerspiegels oder der Herzfunktion bewirkt. Kontrollen der rektalen Temperatur wurden durch Messungen im Magen durchgefuehrt, wobei sich voellige Uebereinstimmung ergab." (NO-401 oben).

Nichts koennte eindeutiger sein, als dass dies Experimente an Menschen waren und Schroeder wusste es als er es las.

Er gab zu, dass ihn Becker-Freyseng im Mai 1944 von den Holzloehnerversuchen in Dachau erzaehte. (R. 3622). Im Herbst 1944 sprach Schroeder mit Holzloehner ueber die Kaelteversuche und gewann den Eindruck, dass dieser sehr deprimiert ueber die ganze Angelegenheit war. Der Selbstmord des letzteren bestaetigte spaeter diese Annahme. (Schroeder, R. 3621, 3624).

Dass Schroeder alles ueber Rascher und die frueher durchgefuehrten Experimente der Luftwaffe in Dachau wusste, wird durch seinen Brief vom 7. Juni 1944 an Himmler betreffs der Meerwasserexperimente unbestreitbar bewiesen. Er lautet auszugsweise wie folgt:

"Sie gaben bereits frueher der Luftwaffe die Moeglichkeit, dringende aerztliche Fragen in Versuch an Menschen zu klaeren.....Da von frueheren Versuchen bekannt, dass im Konzentrationslager Dachau die notwendigen Laboratorien sind, waere dieses Lager sehr geeignet." (NO-185, Ankl.Bew. 134, R. 483, Unterstreichungen eingefuegt).

. Die einzigen frueheren Experimente, die durch die Luftwaffe in Dachau vorgenommen wurden, waren Hoehen- und Kaelteversuche und Rascher nahm an beiden teil. Gluecks vom WVHA sagte, als er sich zu Schroeders Bitte aeusserte,

dass "gegen die Durchfuehrung der vom Chef des Sanitaetswesens der Luftwaffe erbetenen Versuchsreihe in der Versuchsstation Rascher im Konzentrationslager Dachau von hier aus keinerlei Bedenken erhoben werden." (NO-179, Ankl.Bew. 135, R. 485). Soll man annehmen, dass Gluecks mehr ueber die Luftwaffenversuche Raschers wusste als der Chef des Luftwaffen-Sanitaetswesens ? Ein eindeutigerer Beweis fuer seine Kenntnis dieser verbrecherischen Experimente koennte nicht erbracht werden.

Im Hinblick auf Schroeders Kenntnis von den vorhergegangenen Verbrechen, zusammengenommen mit seiner Stellung als Kommandeur des Luftwaffen-Sanitaetsdienstes ist es unumgaenglich, dass er der Beguenstigung der Hoehen- und Kaeltetmorde fuer schuldig befunden wird. Der Beguenstigung macht sich schuldig, wer, obwohl er weiss, dass ein Verbrechen begangen worden ist, dem Verbrecher Schutz gewaehrt oder ihm hilft, sich der Verhaftung, der Verurteilung oder der Urteilstvollstreckung zu entziehen. Wer der Beguenstigung schuldig ist, unterliegt derselben Strafe wie der Haupttaeter. (Wharton's Criminal Law (1932), Band 1, Abschnitt 281). Schroeder verkoerperte selbst das Gesetz des Luftwaffen-Sanitaetsdienstes. Er wusste, dass Verbrechen von Ruff, Romberg, Weltz, Holzloehner und Finke begangen worden waren. Er uebersah nicht nur diese Verbrechen und unternahm nichts gegen sie, sondern unterstuetzte auch trotz seiner Kenntnis davon weiterhin aehnliche Verbrechen seitens Roses und Haagens und befahl persoendlich die Vornahme der verbrecherischen Meerwasserversuche.

III. Schluss.

Von allen Sanitaetsdiensten des Dritten Reiches war der der Luftwaffe vielleicht der aktivste auf dem Gebiet verbrecherischer Experimente, die SS nicht ausgenommen. Als Chef des Luftwaffen-Sanitaetsdienstes traegt Schroeder

die hauptsaechliche Verantwortlichkeit fuer ihre Begehung. Siehe Yamashita, oben.

Rose, als Schroeders Beratender Hygieniker, leitete eine Reihe von Fleckfiebersversuchen in Buchenwald in die Wege, die zwischen Maerz und Juni 1944 von zur Pruefung von ihm zur Verfuegung gestellten Pruefimpfstoffen durchgefuehrt wurden. Sechs Versuchspersonen starben als Folge davon. Die verbrecherischen Fleckfiebersversuche von Haagen, einem Untergebenen Schroeders, in den Konzentrationslagern Schirmeck und Natzweiler wurden von Schroeder, Rose und Becker-Freyseng unterstuetzt. Der Luftwaffen-Sanitaetsdienst war ueber den verbrecherischen Charakter dieser Experimente voellig im Bilde. Viele Versuchspersonen wurden als Folge davon getoetet. Schroeders eigener Stabschef, Kahnt, schrieb an Haagen und fragte an, ob seine Experimente die Typhusepidemie in Natzweiler verursacht haetten. Schroeder selbst besuchte Haagen in Strassburg im Verlauf der Experimente. Noch im August 1944 erhielt Haagen weitere Geldzuwendungen von der Luftwaffe zwecks Fortsetzung seiner kriminellen Forschung. Haagen nahm auch andere verbrecherische Experimente vor, einschl. solcher mit Gas, die den Tod von mehreren Versuchspersonen verursachten. Wimmer, ein Luftwaffen-Sanitaetsoffizier, arbeitete mit Hirt bei der Durchfuehrung von dessen Gasversuchen in Natzweiler zusammen. Haagen plante die Vornahme von Gelbsuchtversuchen an Haeftlingen zusammen mit anderen Sanitaetsoffizieren der Luftwaffe.

Schroeder ordnete persoenlich die Vornahme der Meerwasserversuche an, die den Tod zumindest einer Versuchsperson verursachten und unaussprechliche Qualen fuer viele andere. Er machte sich der Beguenstigung der Hoehen- und Kaelteversuche schuldig.

Keinerlei Milderungsgruende koennen fuer Schroeder vorgebracht werden.

Er hatte Kenntnis davon und auch die Macht, diese Verbrechen zu verhindern. Aber seine Schuld liegt nicht nur darin, dass er es unterliess, kontrollierend einzugreifen. Seine Dienststelle erteilte die Forschungsauftraege, im Verfolg deren die Verbrechen begangen wurden. Seine Dienststelle stellte das Geld und die Einrichtungen fuer ihre Vornahme zur Verfuegung. Seine Untergebenen fuehrten die Experimente durch. Berichte ueber diese Experimente gingen ein, er persoenlich ordnete die Vornahme einer Reihe hoechst gefaehrlicher Experimente an Konzentrationslagerhaeftlingen an. Ihn trifft eine viel groessere Schuld als seine gehorsamen Untergebenen.

"Ende"

Ich, Fred Lax X 046 207 bestaetige hiermit, dass ich durchaus vertraut mit der englischen und deutschen Sprache bin und dass das Vorstehende eine wahrheitsgemaesse und richtige Uebersetzung des zusammenfassenden Schlussberichtes der Vereinigten Staaten von Amerika gegen Oskar Schroeder.

1 August 1947

Fred Lax
X 046 207

MILITÄRGERICHTSCHOF NO. I

FALL NO. I.

ZUSAMMENFASSENDE SCHRIFTSATZ
DER VEREINIGTEN STAATEN VON AMERIKA

* gegen *

WOLFRAM SIEVERS

J. H. McHANEY
ALEXANDER G. HARDY
ARNOST HORLIK-HOCHWALD
ESTHER JANE JOHNSON

FUER:

TELFORD TAYLOR
Brigadier General, USA
Chief of Counsel for War Crimes

HUEBENER,
16 JUNI 1947



EINFUEHRUNG

Unter Punkt I der Anklageschrift wird Sievers beschuldigt, dass er sich mit anderen Personen im Verfolge eines gemeinsamen Vorhabens zu einer Verschwörung und Uebereinkunft zusammengefunden hat, um medizinische Experimente an Menschen ohne deren Zustimmung vorzunehmen; unter Punkt II und III (Kriegsverbrechen und Verbrechen gegen die Menschlichkeit), dass er Haupttaeter, Teilnehmer, Anstifter, Vorschubleistender gewesen ist, seine Zustimmung gegeben und mit Plänen und Unternehmen in Verbindung gestanden hat, die die Durchfuehrung medizinischer Experimente an Menschen ohne Zustimmung der Betroffenen zum Gegenstand hatten, die Ermordung von 112 Juden, welche zur Vervollstaendigung einer Skelettsammlung ausgesucht worden waren, unter Punkt IV, dass er der SS angehört hat, eine strafbare Handlung nach Artikel II, Abschnitt 1(d), des Kontrollratsgesetzes Nr. 10.

I. STELLUNG UND VERANTWORTUNG

Der Angeklagte Sievers trat der NSDAP 1929 bei und war bis Anfang 1931 Mitglied. Er erneuerte seine Mitgliedschaft in dieser Partei im Jahre 1933. (Sievers, R. 5661). Ende 1935 trat er der SS auf eine Anregung Himmlers hin bei. Er stieg in dieser Organisation zum Rang eines Standartenfuhrers auf. (Sievers, R. 5746-7.)

Vom 1. Juli 1935 ab bis zum Kriegsende war Sievers ein Mitglied von Himmlers personlichem Stab und Reichsgeschaeftsfuehrer des "Ahnenerbe", (Ankl. Bew. 31, NO-670, Sievers eidesstattliche Aussage.)

Das Ahnenerbe war eine SS-Organisation,

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die Himmler am 1. Juli 1935 gegruendet hatte. (Tr. 5662). Nach ihrem Statut vom 1. Januar 1931 sollte das Ahnenerbe wissenschaftliche Forschungen hinsichtlich der Kultur und des Erbes der nordischen Rasse unterstützen. Der Vorstand setzte sich aus Himmler als Praesident, Dr. Wuest dem Kurator und Sievers, dem Geschaeftsfuehrer zusammen. Sievers war fuer die geschaeftliche Organisation, die Verwaltung und den Haushalt des Ahnenerbes verantwortlich. Der Sitz der Gesellschaft war Berlin. (Sievers Bew. 7).

Sievers leistete hauptsaechlich Beihilfe zu und nahm teil an den verbrecherischen medizinischen Experimenten, die diese Anklageschrift zum Gegenstand hat, durch das Institut fuer wehrwirtschaftliche Zweckforschung des Ahnenerbes. Sievers sagte aus, dass dieses Institut dem Ahnenerbe entgegen seinen Wuenschen auf Himmlers Befehl hin angegliedert worden sei. Aber ein von ihm selbst ausgefertigtes Dokument beweist, dass er in dieser Hinsicht einen Meineid geleistet hat, wie auch seine ganze Aussage unwahr war. In einem dem 26. Mai 1943 datierten Bericht betreffs Hirts Senfgasforschung, das an Himmler ging, sagte er:

"Um diese und aehnliche (Insekten und Mottenbekaempfung, Raschers Versuche) sich sicher auch noch ergebenden Forschungen im 'Ahnenerbe' einheitlich zusammenzufassen und dadurch die organisatorisch-technische Durchfuehrung zu erleichtern, schlage ich vor:

- 1) Die Begrueendung eines Instituts fuer wehrwissenschaftliche Zweckforschung Ahnenerbe.
- 2) Die Berufung von SS-Hauptsturmfuehrer Professor Dr. Hirt zum taetigen Mitglied und seine Ernennung zum Leiter der Abteilung H (Hirt) im Institut fuer wehrwissenschaftliche Zweckforschung.

Die Arbeiten von Rascher wuerden auch hier gut

unterzubringen sein, sodass man ihn zum Leiter der Abteilung R (Rascher) ernennen koennte. Fuer ein solches den Zwecken der Truppe in erster Linie dienendes Institut waeren z.B. die notwendigen Beschaffungen leichter zu begruenden und verstaendlicher, als wenn sie unter dem Namen des 'Ahnenerbe' allein angefordert werden." (NO-2210, Ankl. Bew. 483, R. 5850).

Auf diesen Vorschlag hin schrieb Himmler an Sievers am 7. Juli 1942 in dessen Eigenschaft als Reichsgeschaeftsfuehrer des Ahnenerbe und traf die folgende Anordnung hinsichtlich des Ahnenerbe:

- "1. Ein Institut fuer wehrwissenschaftliche Zweckforschung zu errichten.
2. Die Forschung des SS-Hauptsturmfuehrers Professor Dr. Hirt in jeder nur moeglichen Weise zu unterstuetzen und alle einschlaegigen Forschungen und Arbeiten in gleicher Weise zu foerdern.
3. Die notwendigen Apparate, Geraete, Hilfsmittel und Mitarbeiter bereitzustellen, bzw. zu beschaffen.
4. Die in Dachau gegebenen Moeglichkeiten mit einzusetzen.
5. Wegen der Kosten, die aus Mitteln der Waffen-SS bereitgestellt werden koennen, mit dem Chef des SS-Wirtschaftsverwaltungshauptamts Verbindung aufzunehmen." (NO-422, Ankl. Bew. 33, R. 136).

In seinem Urteil traf der Internationale Militaergerichtshof die folgende Feststellung:

"Ein Forschungsinstitut, das unter dem Namen Ahnenerbe bekannt war, war auch den SS-Hauptstellen angegliedert. Es heisst, dass die Wissenschaftler, die dieser Organisation angehorte, hauptsaechlich Ehrenmitglieder der SS waren. Im Verlauf des Krieges wurde Ahnenerbe ein Institut fuer wehrwissenschaftliche Zweckforschung angegliedert, das ausgedehnte Experimente vornahm, bei denen lebende Menschen verwendet wurden. Ein gewisser Dr. Rascher war von diesem Institut angestellt und nahm diese Experimente mit voller Kenntnis

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des Ahnenerbe vor. Dieses wurde von dem Reichsfuehrer-SS, der ein Vorstandsmitglied war, unterstuetzt und stand unter seiner Schirmherrschaft." (Transcript, S. 16952-3).

Aus der Beweiserhebung ging hervor, dass Sievers in praktischer Hinsicht das Hauptvollzugsorgan des Ahnenerbe war. In dieser Eigenschaft war er Himmler unterstellt und erstattete diesem regelmassig ueber die Angelegenheiten der Gesellschaft Bericht. (Sievers, R. 4669). Himmlers streng geheime Korrespondenz bezueglich des Ahnenerbe ging an Sievers. (NO-422, oben). Sievers selbst gab zu, dass der Kurator meist haeufig von Berlin abwesend war und es ist offensichtlich, dass er keine bedeutende Rolle spielte. (K. 5669-70). Dr. Sievers war Stellvertreter Dr. Lentzels, des Leiters des geschaeftsfuehrenden Beirates des Reichsforschungsrates. (NO-670, Ankl. Bew. 31, K. 135). Irgendwann vor dem 18. November 1943 wurde Sievers anscheinend zum Leiter dieses Vorstands befoerdert. (NO-3671, Ankl. Bew. 539, R. 10363). Der Beweis ist dafuer erbracht worden, dass der Reichsforschungsrat die Vornahme von medizinischen Experimenten an Konzentrationslagerinsassen unterstuetzte und foerderte. Schon im Dezember 1942 wurde der Reichsforschungsrat vom Reichsfinanzminister um ein Gutachten ueber ein Ersuchen um Geldmittel seitens des Reichsarztes SS Grawitz angegangen. Dr. Lentzel, Sievers unmittelbarer Vorgesetzter, genehmigte die Zurverfuegungstellung von Geldmitteln am 25. Maerz 1943 mit dem Bemerkn: "Soweit sie zum kleineren Teil fuer den Ausbau wissenschaftlicher Arbeitsmoeglichkeiten gemacht sind, beziehen sie sich ausschliesslich auf solche Angelegenheiten, die lediglich mit dem der Waffen-SS

zur Verfuegung stehenden Material (Haeflinge) durchfuhrbar sind, und daher von keiner anderen forschenden Stelle uebernommen werden koennen." (OO2-PS, Ankl. Bew. 39, R. 152). (Das Protokoll ist hier unrichtig und sollte eine Verweisung auf Dokumentenbuch Nr. 1 enthalten). Die Anklagebehoerde lenkte die Aufmerksamkeit des Gerichtshofs auf die Feststellung des ImG im Fall Nr. 1 hin, die wie folgt lautet:

"Im Zusammenhang mit der Verwaltung der Konzentrationslager leitete die SS eine Reihe von Experimenten an lebenden Menschen in die Reihe, die an Kriegsgefangenen oder Konzentrationslagerinsassen vorgenommen wurden. Diese schlossen ein: Kaeltetod und Toetung durch vergiftete Kugeln. Die SS war in der Lage, Regierungsgelder fuer diese Art Forschung mit der Begruendung bewilligt zu erhalten, dass ihr Menschenmaterial zugaenglich sei, das anderen Stellen nicht zur Verfuegung stehe." (R. 153).

Die Taetigkeit des Reichsforschungsarztes bei der Vornahme von verbrecherischen Experimenten an menschlichen Versuchspersonen ohne deren Zustimmung beschraenkte sich nicht auf die Genehmigung von Geldern zwecks Vornahme von Forschungsarbeiten seitens der SS. Forschungsauftraege wurden von ihm erteilt, die die Vornahme von Experimenten an Konzentrationslagerinsassen zum Gegenstand hatten. So erhielt Rascher im Herbst 1943 einen Auftrag vom Reichsforschungsrat, Trockenkaelte-Experimente vorzunehmen, waehrend Hirt mit der Hilfe des Letzteren selbst Senfgasexperimente in Natzweiler durchfuhrte. (NO- 690, Ankl. Bew. 120, R. 371; NO-432, Ankl. Bew. 119, R. 369). Auch dem von Rascher in Dachau im Verlaufe von Experimenten, bei denen Konzentrationslagerinsassen erschossen wurden, entwickelten Blutgerinnungsmittel wurde Interesse entgegengebracht. (NO-613, Ankl. Bew. 243, R. 962). Und zusammen mit der Luftwaffe

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leitete der Reichsforschungsrat Fleckfieber-, Gelbfieber- und Gelbsucht-Experimente seitens Haagen an Insassen des Konzentrationslagers Natzweiler in die Wege. (RO-137, Ankl. Bow. 189, R. 737). So bestätigte sich der Reichsforschungsrat als ein wichtiges Mitglied dieser Gruppe oder Organisation (Reichsforschungsrat) der mit der Begehung dieser Verbrechen in Zusammenhang stand und tatsächlich persönlich an ihnen teilnahm, muss Sievers unter den Bestimmungen des Artikels II Abschnitt 2 des Kontrollratsgesetzes Nr. 10 schuldig befunden werden. Dies waren also die verantwortlichen Stellungen des Angeklagten Sievers: Standartenführer in der SS, Reichsgeschäftsführer des Ahnenerbe und Direktor seines Institutes fuer vordrissenschaftliche Zweckforschung und Vertreter des Leiters des geschäftsführenden Beirats des Reichsforschungsrates.

II. PERSÖNLICHE VERANTWORTLICHKEIT FÜR UND TEILNAHME AN VERBRECHERISCHEN HANDLUNGEN

Sievers war weder Arzt noch Wissenschaftler. Die Anklagebehörde behauptet nicht, dass Sievers persönliche Experimente vornahm. Die Anklagebehörde befindet sich mit Sievers in Übereinstimmung hinsichtlich des Charakters seiner Pflichten als Reichsgeschäftsführer des Ahnenerbe. Als Grawitz die Beteiligung von Sievers an medizinischen Experimenten kritisierte, verteidigte Sievers seine Stellung in einem Brief an Rudolf Brandt vom 28. Januar 1943 wie folgt:

"Ich bin ueber den Verlauf des Gesprachs etwas erstaunt, denn der Befehl des Reichsfuehrers-SS ging ja gerade dahin, dass wir, d.h. das Ahnenerbe, die Arbeiten Dr. Raschers

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unter unsere Obhut nehmen sollten. Das Argument von SS-Gruppenführer Grawitz, dass ein Nichtarzt wie ich Auskunft über ärztliche Dinge geben sollte, ist nicht treffend. Denn ich habe mir ja niemals angemaßt und ich sehe auch meine Aufgabe nicht darin, über ärztliche Dinge zu urteilen. Meine Aufgabe ist ja nur, den Forschern die Wege zu ebnen und Arbeiten, die der Reichsführer-SS befehlt, auf schnellstem Wege zur Durchführung zu bringen. Das allerdings kann ich beurteilen - wer nämlich schneller arbeitet.

"Wenn die Dinge in Zukunft so laufen sollen, wie SS-Gruppenführer Grawitz das wünscht, so habe ich das eine Bedenken, dass dann die Arbeiten Raschers nicht mehr so rasch und ungehemmt vorwärts gehen." (NO-320, Ankl. Bew. 103, II. 335; Unterstreichungen nachträglich).

Sievers war nicht nur Himmlers Vertrauensmann, der Schwierigkeiten für ihn beseitigte. Sievers' Angabe, dass er Forschungsarbeitern die Wege ebnete und Forschungsaufträge beschleunigte, brachte in der Tat ein beträchtliches Maß an Verantwortung mit sich. Sievers machte Anstrengungen, um Geldmittel, Materialien und Apparate, die die Forschungsarbeiter benötigten, zu erhalten. Zu den Materialien, die Sievers sich verschaffte, gehörten auch Konzentrationslagerinsassen, die als Versuchspersonen verwendet werden sollten. Wenn die Experimente im Gange waren, vergewisserte sich Sievers, dass sie in einer zufriedenstellenden Weise durchgeführt wurden. In Verbindung damit gebrauchte Sievers notwendigerweise sein eigenes unabhängiges Urteilsvermögen und musste sich mit den Einzelheiten dieser Aufträge vertraut machen.

Unter Ziffer 6 der Anklageschrift sind zwölf verschiedene Arten von Versuchen einzeln angeführt. Davon wird wohl von Sievers die besondere Verantwortung für und Beteiligung an folgendem zur Last gelegt: Rochen-,

Kaelte-, malaria-, Lostgas-, Seewasser- und Fleckfieberversuche. Weiter wird ihm die besondere Verantwortung fuer und die Teilnahme an der Ermordung und Misshandlung von ungefaehr 112 Juden zur Last gelegt, die zum Zweck der Vervollstaendigung einer Skelettsammlung fuer die Reichsuniversitaet in Strassburg ausgesucht worden war. Es ist auch bewiesen worden, dass Sievers sich an den Polygal-Experimenten beteiligte. Zwecks Vereinfachung strittiger Punkte zieht die Anklagebehoerde hiermit ihre Beschuldigung der Teilnahme an Gelbsuchtversuchen zurueck.

A. Hoeohenversuche (Anklageschrift, Ziffer 6 (..))

Fuer eine eingehende Beschreibung der Hoeohenversuche kann auf den Schriftsatz der Anklagebehoerde gegen Ruff, Rosenberg und Woltz verwiesen werden.

Der Beweis liegt darauf vor, dass seitens der SS die Hoeohenversuche hauptsaechlich vom Ahnenerbe und Sievers unterstuetzt wurden. Schon im Mai 1939 half Sievers Mascher bei seinen Experimenten an Konzentrationslagerinsassen. Zu dieser Zeit ermoeeglichte er es Mascher nach Dachau zum Zwecke der Vornahme von Blutkristallisierungsexperimenten zu kommen. Wegen der Verzoegerung des Beginns der Hoeohenversuche trat Mascher im Februar 1942 an Himmler heran durch Vermittlung seiner Frau und ersuchte um Erlaubnis, an den Versuchen als Mitglied des Ahnenerbe teilnehmen zu duerfen. (NO-263, Ankl. Bew. 47, R. 172). Mascher selbst ging Sievers um seine Hilfe in dieser Angelegenheit an. Sievers fragte bei dem Angeklagten Rudolf Brand am 9. Maerz wegen Maschers Beteiligung an den

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Hoehenversuchen an, die an den Insassen des Konzentrationslagers Dachau vorgenommen werden sollten. Dies geht aus Brandts Antwort am 21. Maerz hervor, in der er Sievers Mitteilung davon machte, dass Himmler der Vornahme solcher Experimente unter der Bedingung zugestimmt haette, dass Rascher an ihnen teilnehmen wuerde. (1581a-PS, Ankl. Bew. 48, R. 175). Sievers gab zu, diesen Brief von Brandt erhalten zu haben. Er gab ferner zu, dass ihn Rascher Anfang Maerz 1942 davon in Kenntnis gesetzt habe, dass das Ahnenerbe sein Forschungswerk in Dachau unterstuetzen sollte. (R. 5672).

Sievers volle Kenntnis von und Teilnahme an Hoehenversuchen wird weiter durch die Aussagen des Zeugen Koff bewiesen, der angab, dass Sievers Dachau besichtigte, als die Vorbereitungen fuer Raschers Experimentierstation getroffen wurden und die Unterdruckkammer gerade eingetroffen war. (R. 623). Rascher erwahnte in seinem Brief vom 8. April 1942, in dem er seiner "Dankbarkeit fuer die grosszuegige Verwirklichung" seines Vorschlages, Hoehenversuche vorzunehmen, Ausdruck gab, dass Sievers tatsaechlich bei einigen der Experimente zusah und vergass nicht die Wichtigkeit der Mitarbeit von Sievers nachdruecklich zu betonen. Er sagte:

"SS-Obersturmbannfuehrer Sievers nahm sich einen Tag Zeit um einige der interessanten Standardversuche anzusehen und wird vielleicht schon kurz darauf berichtet haben. SS-Obersturmbannfuehrer Sievers bin ich zu grossem Dank verpflichtet, da er in jeder Beziehung sehr taetiges Interesse fuer meine Arbeit zeigt." (1971c-PS, Ankl. Bew. 49, R. 175).

Sievers gab zu, dass er Himmler ueber seinen Besuch in Dachau Bericht erstattet habe. (R. 5677, siehe 1971c-PS, Ankl. Bew. 50, R. 180). Auf Grund der Berichte von

Sievers und Rascher ersuchte Himmler rascher die Hoehenversuche in Dachau fortzusetzen. (1971b-PS, Ankl. Bew. 51, R. 180). Sievers sagte aus, Himmler haette ihm mitgeteilt, dass harmlose Experimente an Freiwilligen vorgenommen wurden, gefaehrliche Experimente wurden nur an verurteilten Verbrechern vorgenommen und politische Gefangene nicht fuer irgendwelche Experimente verwendet werden. (R. 3677). Der Beweis ist jedoch erbracht worden, dass Versuche an 120 bis 200 Insassen vorgenommen wurden, dass 70 bis 80 der Versuchspersonen starben und viele von ihnen nicht zum Tod verurteilt worden waren. (Neff, R. 163). Nur einige wenige der Versuchspersonen koennten moeglicherweise als "Freiwillige" bezeichnet werden. Es heisst, dass diese Insassen sich "freiwillig zur Verfuegung gestellt" haetten. Da Rascher ihnen versprach, sie wuerden entlassen werden, wenn sie sich den Experimenten unterzoegen. (Neff, R. 614). Rascher loeste seine Versprechen nie ein. (Neff, R. 615). Aus Sievers eigener Zeugenaussage geht hervor, dass er sich dessen wohl bewusst war, dass die von Rascher und seinen Mitarbeitern bei den Hoehen- und Kaelteversuchen verwendeten Versuchspersonen keineswegs Freiwillige waren. (Siehe Kaelteversuche, unten). Sievers gab zu, Rascher habe ihm gesagt, dass einige der Versuchspersonen an den Folgen der Hoehenversuche gestorben seien. (R. 5868).

Am 20. Juli 1942 legte Rascher den endgueltigen Bericht vor, den er und Romberg ueber die Hoehenversuche an den angeklagten Rudolf Brandt erstattet hatten, damit der letztere ihn Himmler vorlegen sollte. (1607a-PS, Ankl. Bew. 65, R. 204).

Eine Abschrift des Berichtes wurde von Himmler am 25. August 1942 an Feldmarschall Milch gesandt mit der Bitte, Milch solle Rascher und Romberg erlauben, ihm ueber dieses Thema einen Vortrag zu halten und einen von Rascher hergestellten Film vorzufuehren. Himmler erachtete die Ergebnisse der Versuche fuer so wichtig fuer die Luftwaffe, dass er ueberzeugt war, Milch wuerde, nachdem er den Film gesehen haette, Goering darueber berichten. (1607b-PS, Ankl.Bow. 67, R. 213). Sievers setzte sich im Auftrage Raschers mit dem Angeklagten Rudolf Brandt in Verbindung und teilte ihm mit, dass Rascher befuerechte, schon jemand anders als er und der Angeklagte Romberg habe Milch ueber die Hechen-Experimente berichtet. Er, Sievers, teile diese Ansicht nicht, "denn wer sonst ausser Rascher und Romberg koennte den Bericht gemacht haben"? Sievers bat Brandt um Mitteilung, ob er etwas in der Angelegenheit gehoert habe und bat ausserdem um die Erlaubnis fuer Rascher zur Veroeffentlichung der rein wissenschaftlichen Ergebnisse der Versuche. Er, Sievers, wuerde sich bei Rascher erkundigen, in welcher Form und in welchem Umfang er die Veroeffentlichung plane. (MO-221, Ankl. Bow. 68, R. 213). Am 29. August antwortete Brandt Sievers, dass Raschers Vermutung nicht zutreffe. Himmler hatte wenige Tage vorher Milch geschrieben, und Milch selbst wuerde die noetigen Anordnungen fuer Abgabe des Rascher-Romberg-Berichtes erlassen. Brandt sandte auch eine Abschrift des von Himmler an Milch gerichteten Briefes an Sievers. (MO-222, Ankl.Bow. 69, R.215). Als Milch am 31. August 1942 Himmler davon in Kenntnis setzte, dass er beabsichtige,

Rascher und Remberg dazu einzuladen, den Vortrag zu halten und den Film vorzuführen. (343b-PS, Ankl.Bow. 70, R. 215), hat Brandt sofort Sievers und Rascher davon vorstaendigt. (NO-223, Ankl.Bow. 71, R. 215).

Am 9. Oktober 1942 schrieb Rascher an Himmler, er habe den fuer den 11. September vorgesehenen Bericht an Feldmarschall Milch nicht abgegeben, da Milch nicht anwesend gewesen sei. Nachdem er, Rascher, von Himmler beauftragt worden war, lediglich Milch selbst Bericht zu erstatten, lehnte er eine Berichterstattung ab, da kein Vertreter Milchs zur Entgegennahme des Berichtes bestimmt war. Rascher fuhr fort: "Meine Berichterstattung an Sie, hochverehrter Reichsfuehrer, kommt darum so spaat. SS-Obersturmbannfuehrer Sievers wollte direkt an Sie Bericht erstatten und liess sich von Remberg - als Neutralen - (weder Luftwaffe noch SS) am Bahnhof am 11. September muendlich Bericht erstatten und veranlasste Remberg, diesen Bericht niederzulegen und ihm sofort zuzusenden." Er wies ferner darauf hin, es sei notwendig, dass die Unterdruickkammern, in welchen die Versuche tatsaechlich ausgefuehrt wurden, ihm weiterhin zur Verfuegung stueenden. (1610-PS, Ankl.Bow. 73, R. 217).

Am 21. Oktober 1942 trat Sievers wiederum an den Angeklagten Rudolf Brandt heran, damit Rascher und Remberg die Moeglichkeit erhielten, Milch Bericht zu erstatten. Er legte einen Bericht ueber den Vortrag bei, der von Remberg gehalten wurde und gab die Gruende an, warum Remberg und Rascher den Vortrag in Abwesenheit Milchs nicht gehalten hatten. Sievers fuhrte ferner an:

"Die Unterdruoklungsversuche sind jetzt abgeschlossen, sodass die von Reichsfuehrer SS gewuenschte Fortsetzung der Hoehenversuche beginnen kann. Dazu gebrauchen wir wiederum die Unterdruokkammern, diesmal jedoch mit Stufen-erstatpumpen, weil sonst groessere Hoehenversuche nicht durchgefuehrt werden koennen. Die neuerlichen Versuche werden dann auch dazu dienen, um die Inhabilitationsarbeit von Rascher zum Abschluss zu bringen. Die Ueberlassung der Unterdruokkammer, wird jedoch nur moeglich sein, wenn der Reichsfuehrer SS deswegen persoenlich an den Generalfeldmarschall Milch schreibt. Ich fuege den Entwurf eines diesbeueglichen Schreibens bei. (NO-226, Ankl.Bow. 76, R. 220; NO-224, Ankl.Bow. 76, R. 223).

Das grosse Interesse Sievers' an der Foerderung von Raschers und Benbergs Versuchen ist klar aus der Tatsache ersichtlich, dass er einen Entwurf eines Briefes beifuegte, den Himmler an Milch schreiben sollte, um weitere Experimente durch die Zurverfuegungstellung von Unterdruokkammern fuer die Hoehenversuche zu ermoeeglichen. Himmler hat auch wirklich in November 1942 einen Brief in der von Sievers vorgeschlagenen Art entworfen und darum gebeten, dass Rascher der SS wobarstellt werden sollte. (1617-PS, Ankl.Bow. 77, R. 224). Der Brief, der die Beschaffung der Unterdruokkammern und Raschers weitere Mitarbeit in Hoehen- und Kaelteversuchen sichern sollte, wurde tatsaechlich von Himmlers Adjutanten, General Wolff, abgeschickt, der am 28. Oktober 1942 an Milch schrieb. (NO-269, Ankl.Bow. 78, R. 226 - Unterstreichungen eingefuegt). Eine Abschrift dieses Briefes wurde von Angeklagten Brandt an Sievers geschickt.

Am 13. Dezember 1942 erliess Himmler Weisungen,

dass Rascher Hoehenversuche zur Rettung aus grossen und groessten Hoehen durchfuehren sollte, Versuche ueber Wiedererwaermung bei allgemeiner Abkuehlung des menschlichen Koerpers, Versuche ueber die Heilung bei teilweisen Erfrierungen, insbesondere der Extremitaeten, und Kaelteanpassungsversuche in Schneehausern, (Igloos), die im Ge-laende des SS-Berghauses Sudelfeld durchzufuehren sind. Himmler befahl auch, dass verschiedene SS-Stellen und das Ahnenerbe Rascher bei der Beschaffung der notwendigen Apparaturen, Chemikalien und Medikamente beistehen sollten. Das Ahnenerbe erhielt eine Abschrift dieses Briefes. (1612-PS, Ankl.Bew. 79, R. 229).

Dass Sievers bei der Durchfuehrung der Hoehenversuche entscheidenden Einfluss hatte, wird durch Raschers Brief vom 18. November 1943 an Professor Pfannenstiel in Marburg bewiesen, in welchem Rascher vorschlug, dass Pfannenstiel bei Sievers um Erlaubnis nachsuchen solle, Hoehenexperimente an lebenden Menschen durchzufuehren. (NO-3671, oben).

Waehrend der ganzen Zeit, in der die Hoehenexperimente stattfanden, war Rascher dem Ahnenerbe zugeteilt und vollzog die Hoehenversuche mit seiner Hilfe. Sievers hat ausgesagt, dass Rascher Anfang Maerz 1942 fuer das Ahnenerbe zu arbeiten begann. (R. 5671). Am 20. Juli 1942, als der endgueltige Bericht ueber Hoehenversuche Himmler unterbreitet wurde, erschien Raschers Name auf dem Briefkopf des Ahnenerbe-Instituts

fuer wehrwissenschaftliche Zweckforschung, wie aus dem Begleitbrief ersichtlich, und der beigelegte Bericht enthielt die Erklaerung, dass die Versuche zusammen mit der Forschungs- und Lehrgemeinschaft "das Ahnenerbe" durchgefuehrt wurden. (1607a-PS, Ankl.Bew. 65, R. 204; NO-402, Ankl.Bew. 66, R. 213).

Sievers hatte tatsaechlich Kenntnis ueber die verbrecherische Natur der Rascher-Versuche. Es wurde ihm mitgeteilt, dass Dachau-Haeftlinge benutzt werden sollten. Er selbst besichtigte die Versuche. (R. 5812). Sievers gab zu, dass Rascher ihm gesagt hatte, dass mehrere Personen als Folge der Hoeheversuche starben. (R. 5868).

B. Erfrierungsexperimente (Anklageschrift, Ziffer 6 (B)).

Bevor die Hoeheversuche tatsaechlich beendet worden waren, wurde den Angeklagten Woltz und seinem Untergebenen Rascher befohlen, mit den Erfrierungsexperimenten zu beginnen. Dies kann aus einem Brief ersehen werden, den Milch am 20. Mai 1942 an Karl Wolff schrieb. (343-PS, Ankl.Bew. 62, R. 200). Kurz danach hatte Rascher eine Konferenz mit Hippke, und die Gruppe zur Durchfuehrung der Experimente wurde so geaendert, dass sie Jarisch, Holzlochner und Singer einschloss. Rascher berichtete diese Befehle an Himmler am 15. Juni 1942 und leitete Hippkes Ersuchen um Durchfuehrung der Experimente in Dachau weiter. Er fuehrte aus: "Es wurde auch festgelegt, dass mich der Inspekteur (Hippke) zu diesen Versuchen jederzeit kommandieren wird." (NO-283, Ankl.Bew. 82, R. 309). Der Forschungsauftrag wurde vom

Referat fuer Luftfahrt medizin (2 II B) unter Anthony, mit dem Angeklagten Becker-Freysong als seinen Stellvertreter, erteilt. (NO-286, Ankl.Bew. 88, R. 248).

Die Kaltwasser-Erfrierungsexperimente begannen am 15. August 1942 und dauerten bis Anfang 1943. Sie wurden von Holzlochner, Finko und Rascher vorgenommen, alles Offiziere vom Sanitaetswesen der Luftwaffe. Holzlochner und Finko arbeiteten bis Dezember 1942 mit Rascher zusammen. Wie Rascher sich in einer Darlegung seiner medizinischen Ausbildung ausdrueckte: "Auf Befehl des Reichsfuehrers SS sowie des Generaloberstabsarztes Prof. Dr. Hippke 'Versuche zur Rettung ausgekuehlter Menschen' (Beginn am 15. 8.42); 4 Monate in Zusammenarbeit mit Universitaetsprof. Dr. Holzlochner, Kiel, und Dr. Finko, Universitaet Kiel." (NO-230, Ankl.Bew. 115, R. 356). Rascher sagte auch: "Mai 1939 bis heute Militaerdienst bei der Luftwaffe". Das Schriftstueck trug das Datum 17. Mai 1943. Man darf also nicht vergessen, dass waehrend der gesamten Hochdruckversuche und im wesentlichen waehrend fast aller Kaelteversuche, Rascher in aktiven Dienst bei der Luftwaffe, nicht bei der SS stand. Erst nach Mai 1943 begann er mit seinem Dienst bei der Waffen-SS. Selbstverstaendlich wurde er von beiden, der Luftwaffe und der SS, bei diesen Versuchen unterstuetzt.

Der Zeuge Hoff, der ein Haeflin assistent bei den Experimenten war, sagte aus, dass Erfrierungsversuche im Konzentrationslager Dachau Ende Juli oder in August 1942 begannen. Sie wurden von Rascher, Holzlochner und Finko durchgefuehrt. Im Oktober

gingen Holzloehner und Finke weg und Rascher setzte seine Erfrierungsexperimente allein bis zum Mai 1943 fort. Rascher, Holzloehner und Finke benutzten eiskaltes Wasser fuer ihre Erfrierungsexperimente. Das Versuchss Becken wurde zwei Meter lang und zwei Meter hoch auf Raschers Versuchsstation in Block V errichtet. (R626-8). Die Experimente wurden auf die folgende Weise durchgefuehrt. Das Becken wurde mit Wasser gefuellt und dann wurde Eis hinzugegeben bis das Wasser 3°C hatte. Die Versuchspersonen, entweder mit einem Fliegeranzug bekleidet oder nackt, wurden in das Eiswasser gestellt. Betaubungsmittel wurden haeufig nicht benutzt. Es dauerte immer eine gewisse Zeit, bis die sogenannte "Erfrierungsnarkose" die Versuchspersonen bewusstlos machte und sie litten fuerchterlich. Die Temperatur der Opfer wurde rektal und durch den Magen mittels Galvanometer gemessen. Bei einer Koerpertemperatur von ungefaehr 33°C verloren sie das Bewusstsein. Die Experimente wurden tatsaechlich fortgesetzt bis die Versuchspersonen auf eine Koerpertemperatur von 25°C abgekuehlt waren. Ein Versuch an zwei russischen Offizieren, die nackt dem eiskalten Wasser ausgesetzt wurden, war besonders grausam. Diese zwei Russen waren noch nach zwei Stunden bei Bewusstsein. Rascher weigerte sich, eine Injektion zu geben. Als einer der Haeftlinge, der den Experiment beiwohnte, versuchte, den beiden Opfern ein Anaesthetikum zu verabreichen, bedrohte ihn Rascher mit einem Revolver. Beide Versuchspersonen starben, nachdem sie mindestens fuenf Stunden der fuerchterlichen Kaelte ausgesetzt worden waren. (Neff, R. 629-631). Ungefaehr 280 bis 300 Versuchspersonen wurden fuer diese Art

von Erfrierungsversuchen verwendet, aber in Wirklichkeit wurden 360 bis 400 Versuche vorgenommen, da viele Versuchspersonen zwei- oder dreimal bei den Experimenten benutzt wurden. Ungefäher 80 bis 90 Versuchspersonen starben. Ungefäher 50 bis 60 Haeftlinge wurden bei den Holzloehner-Finke-Rascher-Experimenten benutzt und ungefäher 15 bis 18 davon starben. Politische Gefangene, Nichtdeutsche und Kriegsgefangene wurden fuer diese Experimente benutzt. Viele der dabei verwendeten Haeftlinge waren nicht "zum Tode verurteilt" worden. Die Versuchspersonen haben sich fuer die Experimente nicht freiwillig gemeldet. (Heef, R. 627-8).

Selbst wenn man annehmen wuerde, dass bei allen Versuchen zum Tode verurteilte Gefangene verwendet worden waeren, was nicht stimmt, so ist die "Verteidigung", dass sie sich freiwillig auf Grund einer Vereinbarung meldeten, dass ihre Urteile auf lebenslaengliches Gefaengnis herabgesetzt wurden, nicht stichhaltig. Waehrend der Hoehenversuche hat Himmler angeordnet, dass bei weiteren Experimenten, bei welchen die laenger andauernde Herstaetigkeit von getoeteten Versuchspersonen beobachtet wurde, zum Tode verurteilte Verbrecher benutzt werden sollten und, falls sie wieder ins Leben zurueckgerufen wuerden, sollten sie zu lebenslaenglichem K.Z. "begnadigt werden". (1971b-PS, Ankl.Bew. 51, R. 180). Rascher hat anscheinend diesen Befehl dahin ausgelegt, dass er auch auf die Erfrierungsversuche angewandt werden sollte. Am 20. Oktober 1942 teilte Rascher Rudolf Brandt mit, dass bis dahin nur Polen und Russen fuer solche Experimente benutzt wurden, und dass nur einige dieser Personen zum Tode verurteilt worden waren. Er fragte, ob Himmlers "Amnestie" fuer Russen und Polen gelte. (1971d-PS, Ankl.Bew. 52, R. 183). Brandt teilte ihm mit, dass dies nicht der Fall sei. (1971c-PS, Ankl.Bew. 53,

R. 183). Bezueglich der weiteren Eroerterung dieser angeblichen Verteidigung siehe den Schlussvortrag der Anklagebehoerde.

Trockenkaelteversuche wurden von Rascher im Januar, Februar und Maerz 1943 durchgefuehrt. Eine Versuchsperson wurde nachts auf eine Tragbahre gelegt und der Kaelte im Freien ausgesetzt. Sie wurde mit einem Leintuch zugedeckt, aber jede Stunde wurde ein Eimer kaltes Wasser ueber sie geschuettet. Sie verblieb im Freien bis zum Morgen, dann wurde ihre Temperatur mit einem Thermometer gemessen. Bei den naechsten Versuchsreihen wurde der Plan geaendert und die Versuchspersonen mussten im Freien waehrend vieler Stunden verbleiben, ohne ueberhaupt zugedeckt zu werden. Eine Versuchsreihe wurde mit 10 Gefangenen ausgefuehrt, die ueber Nacht im Freien verbleiben musste. Rascher selbst war bei diesen 18 bis 20 Versuchen dieser Art dabei. Ungefuehr drei Versuchspersonen starben als Folge der Trockenkaelteversuche. (Neff, R. 636-7).

Auf Befehl von Grawitz und Rascher sollte ein Massensexperiment mit 100 Versuchspersonen durchgefuehrt werden. Da Rascher nicht anwesend war, war Neff in der Lage, das Experiment zu vereiteln, indem er die Versuchspersonen aus dem Freien hereinnahm, und aus diesem Grunde ereigneten sich waehrend dieser Versuchsreihen keine Todesfaelle. Die laengste Zeit, die Versuchspersonen im Freien in der Kaelte belassen wurden, war von 6 Uhr abends bis 9 Uhr morgens. Die niedrigste Temperatur, deren sich Neff waehrend der Trockenkaelteversuche entsinnen kann, war 25° Koerpertemperatur. Da Rascher verboten hatte, dass Versuche unter Anaesthetikum durchgefuehrt wuerden, erlitten

die Versuchspersonen grosse Qualen und schrien so laut, dass es unmöglich war, weitere Experimente durchzufuehren. Rascher ersuchte daher um Himmlers Erlaubnis, solche Experimente zukuenftig im K.Z. Auschwitz durchzufuehren. Nichtdeutsche und politische Gefangene waren unter den Versuchspersonen, keiner war zum Tode verurteilt worden. Sie hatten sich nicht freiwillig fuer diese Versuche gemeldet. (Neff, R. 637-9).

Im Zusammenhang mit den Erfrierungsversuchen hat Neff weiterhin ausgesagt, dass er im September 1942 von Sievers Befehl erhielt, Herz und Lunge von fuenf Versuchspersonen, die bei den Versuchen getoetet wurden, zu Professor Hirt in Strassburg zwecks weiterer wissenschaftlicher Studien zu bringen. Der Fahrausweis fuer Neff wurde von Sievers ausgestellt, und die Ahnenerbegesellschaft bezahlte die Kosten fuer die Uebersendung der Leichen. Einer der fuenf getoeteten Versuchspersonen war ein Hollaender. (Neff, R. 633). Sievers besuchte die Versuchsstationen waehrend der Erfrierungs-experimente ziemlich haeufig. (Neff, R. 635).

Neffs Aussage wird durch die eidesstaetlichen Erklaerungen der Angeklagten Rudolf Brandt und Becker-Freyseng (NO-242, Ankl.Bow. 80, R. 230; NO-448, Ankl.Bow. 81, R. 235) und die Aussage der Zeugen Lutz (R. 266-76), Vloweg (R. 431) und Michalowsky (R. 878-83) und durch das dokumentarische Beweismaterial bei den Akten bestaetigt.

Am 15. Juni 1942 teilte Rascher Himmler mit, dass der Inspekteur des Sanitaetswesens der Luftwaffe, Hippke, um Erlaubnis nachsuche, dass Kaelteexperimente

von Rascher und Holzlochner im K.Z. Dachau durchgefuehrt werden koennten. (NO283, Ankl.Bew. 82, R. 239). Am 10. September unterbreitete Rascher Himmler seinen ersten Zwischenbericht ueber die Erfrierungsversuche. In dem Begleitbrief erklarte Rascher, dass Holzlochner, der an der Durchfuehrung der Experimente im Auftrage der Luftwaffe teilnahm, auf der "Kaeltetagung" der Luftwaffe am 26. und 27. Oktober in Nuernberg einen Vortrag ueber das Thema Erfrierung zu halten beabsichtige. Rascher teilte Himmler mit, dass "Sievers, der die Experimente in der letzten Woche in Dachau begutachtete, der Ansicht sei, dass, falls irgendein Bericht auf einer Tagung gemacht werden sollte, ich damit beauftragt werden sollte, den Bericht zu unterbreiten." (NO-234, Ankl.Bew. 83, R.241).

Aus dem Zwischenbericht selbst geht auf den ersten Anblick hervor, dass Todesfaelle als Folge der Rascher-Holzlochner-Finko-Versuche vorkamen, und in ihm wurde schnelle Wiedererwaermung von sehr abgekuehlten Personen befuerwortet. Rascher glaubte, dass Wiedererwaermung mit animalischer Waerme zu langsam sein wuerde und dass Versuche in dieser Hinsicht unnuetig seien. Er aeusserte eine aehnliche Ansicht bezueglich des Gebrauchs von Drogen zum Zwecke der Wiedererwaermung. (1618-PS, Ankl.Bew. 84, R. 241). Als Himmler den Empfang von Raschers Bericht am 22. September bestaetigte, ordnete er nichtsdestoweniger an, dass die Versuche mit Wiedererwaermung durch Drogen und Koerperwaerme durchgefuehrt werden sollten. Eine Abschrift dieses Himmlerbefehls wurde Sievers am 25. September zugeschickt. (1611-PS, Ankl.Bew. 85, R. 244).

Auf Grund dieses Befehls trat Rascher

an Sievers heran, um Abmachungen zwecks sofortiger Beschaffung von 4 Zigeunerinnen zu treffen, die als Versuchspersonen zum Wiedererwärmern dienen sollten. (NO-285, Ankl.Bew. 86, R. 244). Die Anstrengungen Sievers in dieser Beziehung hatten anscheinend eine Reihe Telegramme zur Folge, dass diese Frauen von dem Ravenstruecker Konzentrationslager nach Dachau ueberzustellen seien. Rudolf Brandt leitete diese Ueberstellung. (1619-PS, Ankl.Bew. 87, R. 274-8). Die vier Frauen kamen im November 1942 in Dachau an. Drei der Frauen wurden zum Wiedererwärmern erfrorener Versuchspersonen verwandt, eine wurde ausgenommen, weil sie ein "nordischer" Typ war. Dass die Versuchspersonen keine Freiwilligen waren geht aus einer Bemerkung hervor, die von einer dieser Frauen gemacht wurde: "Besser ein halbes Jahr in einem Bordell als ein halbes Jahr in Konzentrationslager." (NO-323, Ankl.Bew. 94, R. 325). Diese Versuchsreihe, die nicht nur moerderisch sondern auch obszoeen war, wurde von Rascher zwischen November 1942 und Februar 1943 durchgefuehrt. Sein Bericht an Himmler zeigt, dass eine der Versuchspersonen infolge dieser Versuche starb. (1616-PS, Ankl.Bew. 103, R. 342).

Am 8. Oktober 1942 teilte Stabsarzt Prof. Anthony von der Sanitaetsinspektion der Luftwaffe Himmler mit, dass ueber die Resultate der von Rascher zusammen mit Holzloehner und Finke ausgefuehrten Nasskaelteversuche von Holzloehner auf der "Kaeltekonferenz" am 26. - 27. Oktober in Nuernberg Vortraege gehalten werden sollten. (NO-286, Ankl.Bew. 88, R. 248, vergl. NO-234 oben). Am 16. Oktober bat auch Rascher Himmler um Erlaubnis,

zur Freigabe der Resultate der Kaelteexperimente auf dieser "Kaeltetagung". (NO-225, Ankl.Bew. 89, R. 250). Am selben Tag legte Rascher Himmeler seinen Schlussbericht ueber die Kaelteexperimente vor, soweit sie zusammen mit Holzloehner und Finke durchgefuehrt worden waren. Dieser Bericht schloss die Wiedererwaermungsversuche mittels Drogen und Koerperwaerme nicht ein, die zu jener Zeit noch nicht abgeschlossen waren. (1613-PS, Ankl. Bew. 90, R. 251). Dieser Bericht ueber "Unterkuehlungsversuche an lebenden Menschen" durch Holzloehner, Rascher und Finke bestaetigt durchaus die Aussage Neffs ueber die Nasskaelte-Versuchsreihen und beweist, dass viele Todesfaelle eintraten. Er zeigt, dass einige der Versuchspersonen diesen fuerchterlichen Versuchen ohne Anaesthesierung - die ihre Schmerzen bedeutend gemildert haetten - unterworfen wurden. Die Leiden der Versuchspersonen wurden in lebendiger Weise beschrieben. Schaum bildete sich um den Mund der Versuchspersonen, Atmungsschwierigkeiten und Lungenoedeme traten auf. Die Abkuehlung von Hals und Hinterkopf der Versuchspersonen rief besonders schmerzliche Empfindungen hervor. Fortschreitende Erstarrung, die sehr stark in den Armmuskeln auftrat, Zyanose und vollstaendige Unregelmassigkeit der Herstaetigkeit waren die von den Experimentatoren beobachteten Symptome. Heisse Baeder wurden als die beste Behandlung von schwer unterkuehlten Personen empfohlen. Die Todesfaelle erfolgten durch Herzschlag und durch Gehirn-oedeme, und Massnahmen zur Verhuendung solcher Folgen

wurden ausführlich besprochen. (NO-428, Ankl.Bew. 91, R. 252).

Sievers bestritt, dass ihm Rascher ueber die Kaelteexperimente Bericht erstattete, gab aber zu, dass er Raschers Berichte gelegentlich von Himmler erhielt. (R. 5684-5). Aber durch die Aussage des Zeugen Neff ist nicht nur bewiesen, dass Rascher dem "Ahnenerbe" monatlich, vierteljährlich und halbjährlich Berichte vorlegte, die den Charakter und den Stand seiner Versuchsarbeiten eingehend beschrieben (R. 635), sondern dass ihm auch der Schlussbericht Raschers, Holzlochners und Finkes (NO-428 oben) zugesandt wurde. (R. 681).

Am 24. Oktober bestaetigte Himmler den Empfang dieses Berichtes, den er "mit grossem Interesse" gelesen habe und beauftragte Sievers, ihm die "Moeglichkeit bei Instituten, die uns nahestehen, die Auswertung zu ermoeglichen", zu verschaffen. (1609-PS, Ankl.Bew. 92, R. 264).

Am 26. und 27. Oktober 1942 fand in Muenberg unter dem Vorsitz Anthony's und mit der Assistenz Becker-Freysengs die Konferenz ueber "aus Seenot und Winternot herruehrende Probleme", die von dem Sanitaetsinspekteur der Luftwaffe, Hippke, gefoerdert worden war, statt. Auf dieser Konferenz hielt Holzlochner seinen Vortrag ueber den Titel "Prophylaxe und Behandlung der Unterkuehlung im Wasser."

Die von ihm mitgeteilten, sehr eingehenden klinischen Beobachtungen schlossen die Moeglichkeit aus, dass bloss Beobachtungen an geretteten Personen gemacht worden waren, und sie machten es klar, dass Versuche an Menschen

ausgefuehrt worden waren. (NO-401, Ankl.Bew. 93, R. 309). Ausserdem machte Rascher nach Holzloehners Vortrag eine Feststellung, die klar zeigt, dass die Versuche an Konzentrationslagerhaeftlingen vorgenommen worden waren. Dieser Bericht verursachte unter den beim Vortrag anwesenden Beamten eine Sensation. Es wurde dargetan, dass Todesfaelle sich ereignet hatten. (Lutz, R. 272). Sievers bestritt, dass er ueber diese Konferenz einen Bericht erhalten habe (R. 5689), aber der Tagebucheintrag vom 12. Januar 1943 zeigt, dass er mit Rascher die "Beschaffung von Tagungsberichten ueber Kaeltetagung in Nuernberg betreffs der Wirkung von Kaelte" ercoerterte. (NO-538, Ankl. Bew. 122, R. 379).

Am 6. November 1942 sandte Rascher an Himmlers persoenlichen Stab, das Amt des Angeklagten Rudolf Brandt, ein Memorandum betreffend Zusammenarbeit mit Dr. Cremer von der aerztlichen Versuchstation fuer Gebirgssanitaetstruppen in St. Johann. Dies war eine, Handloser in seiner Eigenschaft als Armeesanitaetsinspekteur unterstellte Schule. In diesem Memorandum empfahl Rascher Trockenkaelteversuche an Konzentrationslagerinsassen in der Gebirgsgegend von Bayrischzell. Der Zweck war, festzustellen, ob Schaeden an den Extremitaeten infolge Erfrierens bei Personen, die an Kaelte gewohnt seien, eine guenstigere Prognose naetten als bei Personen, die nicht daran gewohnt seien. Rascher sagte, Cremer habe den Bericht in Nuernberg gehoert und sei von den Versuchen sehr begeistert gewesen. Er bat, einigen beiwohnen zu duorfen. (NO-319, Ankl.Bew. 96, R. 328; 1579-PS, Ankl.Bew. 97, R. 329). Himmler gab seine Erlaub-

nis fuer diese Art Trockenkaelteexperimente in einem vom 13. Dezember 1942 datierten Befehl, in dem er als Raschers Aufgabe die Ausfuehrung von Hoehenversuchen von drei verschiedenen Arten von Kaelteversuchen anfuehrt. Abschriften dieses Befehls wurden verschiedenen SS-Stellen und dem Verein "Ahnenerbe" zugeschickt. (1612-PS, Ankl.Bew. 79, R. 229). Himmlers Brief enthielt die folgende Anweisung:

"5. Die Beschaffung der fuer alle Versuche notwendigen Apparaturen ist im einzelnen mit der Dienststelle des Reichsarztes-SS, des SS-Wirtschafts-Verwaltungshauptamtes und mit dem Ahnenerbe o.V. zu besprechen....."

Das Beweismaterial zeigt, dass Rascher vor dem 21. Oktober 1943 von Blome vom Reichsforschungsrat die Aufgabe zugewiesen erhielt, Freiluftkaelteversuche durchzufuehren. (NO-432, Ankl.Bew. 119, R. 369). Sievers half Rascher bei der Beschaffung des Platzes und des Personals fuer diese Versuche. (3546-PS, Ankl.Bew. 123, R. 382, Eintragung fuer den 21. Januar 44).

Am 13. Januar 1943 hatte Rascher mit Grawitz und dem Angeklagten Poppendick ueber die Kaelteversuche eine Konferenz. Auf dieser Konferenz wurden Raschers Kaelteversuche eingehend besprochen. Er betonte, dass er mit dem "Ahnenerbe" arbeite und ihm Bericht erstatte. Der Aktenvermerk Raschers ueber diese Konferenz zeigt offensichtlich, dass von ihm Wasser-Kaelteversuche ausgefuehrt worden waren und dass Grawitz ihn aufforderte, weitere Erfrierungsversuche mit trockener Kaelte auszufuehren, bis er "einige 100 Faelle habe."

Dieser Aktenvermerk wurde am 28. Januar dem Angeklagten Rudolf Brandt von Sievers zugeschickt. Im Begleitbrief bat Sievers Brandt um seine Meinung darueber, welche Haltung er und Rascher in Bezug auf ihre Stellung Grawitz gegenueber einnehmen sollte, mit der unausgesprochenen Bitte, dass Brandt seine Stellung bei Grawitz staerken solle, der es als "eine untragbare Situation" betrachtete, "wenn ein Nichtarzt ueber aerztliche Dinge Auskunft geben soll." Was Sievers fertigbringen wollte, war ein Eingreifen Brandts bei Himmler seinetwegen, und er betonte deshalb seine persoonliche Bedeutung, indem er sagte:

"Meine Aufgabe ist ja nur, den Forschern die Wege zu ebnen und Arbeiten, die der Reichsfuehrer-SS befiehlt, auf schnellstem Wege zur Durchfuehrung zu bringen. Das allerdings kann ich beurteilen - wer naemlich schneller arbeitet.

"Wenn die Dinge in Zukunft so laufen sollen, wie SS-Gruppenfuehrer Grawitz das wuenscht, so habe ich das eine Bedenken, dass dann die Arbeiten Raschers nicht mehr so rasch und ungehemmt vorwaerts-gehen." (NO-320, Ankl.Bew. 103, R. 335-9).

Am 17. Februar sandte Rascher seinen Bericht ueber die Resultate des Experiments, in dem Koerperwaerme zur Etwaermung schwer unterkuehlter Personen benutzt wurde. (1616-PS, oben). In seinem Begleitbrief an Himmler teilte er ihm mit, dass er in Dachau Trockenkaelteversuche ausfuehre. An dreizehn Versuchspersonen sei experimentiert worden; sie seien 9 - 11 Stunden lang im Freien der Kaelte ausgesetzt worden, wobei ihre Koerpertemperatur auf 27 - 29° Celsius gefallen sei. Die Extremitaeten der Versuchspersonen seien weissgefroren gewesen.

Rascher schlug eine grosse Reihe von Experimenten im Auschwitz Konzentrationslager vor. Dieser Ort wuerde fuer die Vornahme solcher Experimente geeignet sein, weil es dort kaelter sei und weil durch die Grosse des Gelaendes im Lager selbst "weniger Aufsehen erregt wird (die Versuchspersonen bruellen, wenn sie sehr frieren). (1616-PS, oben, Unterstreichungen eingefuegt). Himmler gab Rascher die Erlaubnis, zusaetliche Kaelteexperimente in den Konzentrationslagern Auschwitz und Lublin auszufuehren. (1615-PS, Ankl.Bew. 109, R. 350).

Raschers Brief an den Angeklagten Rudolf Brandt vom 4. April 1943 enthuehlt, dass noch eine Reihe von Trockenkaelteversuchen waehrend einer Periode schwerer Kaelte an Haeftlingen des Konzentrationslagers Dachau ausgefuehrt wurden. Einige der Versuchspersonen wurden 14 Stunden lang im Freien einer Kaelte von minus 6° C ausgesetzt, und ihre Koerpertemperatur war bis auf 25° C gesunken. (NO-292, Ankl.Bew. 11, R. 354). Die drei Todesfaelle, die nach Neffs Zeugenaussage von den Trockenkaelteversuchen verursacht wurden, ereigneten sich augenscheinlich waehrend dieser Versuchsreihe. (Neff R. 637-8).

Am 11. April legte Rascher Himmler einen kurzen Bericht ueber "Auskuehlungsversuche an Menschen an der Luft vor." (NO-240, Ankl. Bew. 112, R. 354). Der Bericht selbst ist nicht vorhanden, aber der Brief des Angeklagten Rudolf Brandt an Rascher vom 16. April beweist, dass der Angeklagte Gebhardt ihn von Himmler zur Durchsicht erhielt. (NO-241, Ankl.

Bew. 113, R. 355). Eine Konferenz zwischen Rascher und dem Angeklagten Gebhardt fand am 14. Mai in Gegenwart des Angeklagten Fischer in Hohenlychen statt. Gebhardt besprach mit Rascher die im Dachauer Konzentrationslager ausgefuhrten Kaelte- und andere Versuche und lud Rascher ein, mit ihm zusammenzuarbeiten. Rascher fuerchtete, seine Unabhaengigkeit zu verlieren und wandte sich an Sievers, um diese Angelegenheit in taktvoller Weise zu erledigen, da Gebhardt ein sehr guter Freund Himmlers war und Rascher daher seine etwaige Gegnerschaft fuerchtete. (NO-231, Ankl.Bew. 116, R. 360). Sievers seinerseits trat am 22. Mai in dieser Angelegenheit an Brandt heran und ersuchte um Aufschluss darueber, ob Himmler in Bezug auf Raschers Zugehoerigkeit und Arbeit Gebhardt irgendwelche bestimmte Weisungen gegeben habe. Er bat weiterhin um Brandts Eingreifen zugunsten Raschers und sagte:

"Ich lege diese Angelegenheit vertrauensvoll in Ihre Haende und bitte Sie vor allem, den Brief von Dr. Rascher ganz allein, nur zu Ihrer persoenlichen Unterrichtung zu verwenden, damit Dr. Rascher keinerlei Schwierigkeiten von SS-Gruf. Prof. Dr. Gebhardt gemacht werden."
(NO-267, Ankl.Bew. 117, R. 366).

Als Rascher Gebhardt in Hohenlychen besuchte, ermutigte ihn der letztere, die Universitaetslaufbahn zu ergreifen. (NO-231 oben). Rascher folgte dieser Anregung, und Sievers unterstuetzte ihn voll und ganz und arbeitete mit den Angeklagten Brandt und Elms zusammen, um Raschers Ernennung zum Privatdozenten zu ermoeeglichen. (NO-229, Ankl.Bew. 118, R. 367; NO-290, Ankl.Bew. 121, R. 373).

Dass Raschers Habilitationsschrift

auf den Kaelte- und Hohenversuchen basierte, wird durch Raschers Bericht ueber seine aerztliche Vorbildung, den er zum Zwecke seiner Habilitation (NO-230, Ankl.Bew. 115, R. 356) schrieb und auch anderes Beweismaterial in den Akten erwiesen. (NO-240, Ankl.Bew. 112, R. 354).

Ungefuehr im November 1942 schien es Sievers erwuenscht, Rascher von der Luftwaffe zur Waffen-SS versetzen zu lassen. Sievers als Reichsleiter des Ahnenerbess hatte im Zusammenhang mit Raschers Versetzung eine umfangreiche Korrespondenz. (NO-288, Ankl.Bew. 95, R. 326; NO-236, Ankl.Bew. 101, R. 333; NO-320, Ankl.Bew. 103; R. 335; NO-238, Ankl.Bew. 104, R. 340). Diese Versetzung, die nach dem Monat Mai 1943 stattfand, verursachte betruechtliche Schwierigkeiten, weil Hippke Rascher nicht freigeben wollte, obwohl er und seine Mitarbeiter von den vielen Todesfaellen bei den Versuchen wusste. Hippke sagte, Rascher sei ihr Verbindungsmann zur SS. (NO-270, Ankl.Bew. 110, R. 351).

In Sievers'schen Tagebuch sind zahlreiche Beispiele fuer Sievers Hilfe zugunsten Raschers. Am 1. Februar 1943 sprach er von seinen Bemuehungen, Apparate, Geraete und Chemikalien fuer Raschers Experimente zu bekommen. (NO-538, Ankl.Bew. 122, R. 379). Am 6. und 21. Januar 1944 erwahnte er die Platzfrage. (3546-PS, Ankl.Bew. 123, R. 382). Rascher berichtete Sievers von Zeit zu Zeit ueber den Stand und die Einzelheiten der Kaelteversuche. (NO-538, oben, Eintragungen vom 18. Febr., 12. Maers und 6. und 7. April 1943).

Sievers hatte zahlreiche Verpflichtungen in Verbindung mit Raschers Berichten. Es war Sievers, der vorschlug, dass Rascher auf der am 26.-27. Oktober 1942 in Nuernberg abgehaltenen Kaeltekonferenz der Luftwaffe erscheinen und einen Bericht erstatten sollte. Es war Sievers' Aufgabe, die noetigen Vorbereitungen betreffs Erstattung des Berichtes zu treffen. (NO-234, Ankl.Bew. 83, R. 241; 1609-PS, Ankl.Bew. 92, R. 264).

Das Verhaeltnis Sievers' zu Rascher bei der Vornahme der Kaelteversuche machte es Sievers zur Pflicht, die vorbereitenden Massnahmen fuer die Vornahme der Experimente zu treffen, sich durch persoenliche Inspektion mit dem Fortschritt der Experimente vertraut zu machen, die notwendige Ausstattung und das Material einschliesslich der waehrend der Kaelteexperimente gebrauchten Menschen zur Verfuegung zu stellen, Berichte ueber den Fortschritt der Versuche zu empfangen und zu erstatten und die Frage der Auswertung und Veroeffentlichung solcher Berichte zu behandeln. In Grunde genommen war diese Taetigkeit die Erfuellung seiner Pflichten, wie sie von Sievers in seinem Brief an R. Brandt vom 28. Januar 1943 auseinandergesetzt sind. In diesem Brief erklaerte er, dass er den Forschern die Wege oeffnete und dafuer sorgte, dass Himmlers Befehle ausgefuehrt wurden. (NO-320, Ankl.Bew. 103, R. 335).

Dies ist ferner durch die Tatsache erwiesen, dass Sievers im September 1942 fuer Raschers Hoehen- und Kaelteexperimente einen Elektrokardiograph zu bekommen versuchte. (NO-3575, Ankl.Bew. 548, R. 10371), und dass er am 20. Oktober 1942 an Wuest, den Kurator des Ahnenerbes mit der Bitte um bestimmte Instrumente zum Gebrauch im Ahnenerbeinstitut fuer wehrwissenschaftliche Forschung herantrat. (NO-3674, Ankl.Bew. 549, R. 10372).

In der ersten Septemberwoche des Jahres 1942 sowie bei verschiedenen anderen Gelegenheiten besuchte Sievers die Versuchstation in Dachau und wohnte daselbst Kälteversuchen bei. (Neff, R. 635; NO-234, Ankl.Bew. 83, R. 241). Sievers hat ausgesagt, dass er bei der Ausführung von zwei Kälteversuchen in Dachau anwesend gewesen sei. Beim ersten Mal sah Sievers, wie eine Versuchsperson in einen Raum gebracht wurde, und er beobachtete die Aufsichtspersonen bei der Ablesung der Instrumente. (R. 5684). Bei der zweiten Gelegenheit, als Rascher zusammen mit dem Ahnenerbe-Angestellten Hirt experimentierte, war Sievers zugegen, als ein Versuch unternommen wurde, bei dem man mit toedlichem Ausgang rechnete. (R. 5685-7).

C. Malariaversuche (Anklageschrift, Ziffer 6 (C)).

Wegen der Beschreibung der verbrecherischen Natur der Malaria-Experimente wird auf den Schriftsatz der Anklagebehörde gegen den Angeklagten Rose verwiesen.

Sievers hatte von den verbrecherischen Malaria-Versuchen in Dachau Kenntnis und ließ ihnen seine Unterstützung. In seiner Zeugenaussage hat er erklärt, dass er Anfang 1942 von Himmler erfahren habe, dass Schilling in Dachau Malariaversuche durchführte. (R. 5692). In einer Denkschrift vom 3. April 1942 ueber eine Beratung zwischen Sievers und Dr. May ueber die Platzfrage fuer eine Versuchstation des Ahnenerbes wurde von Sievers als ueberzeugender Grund fuer die Errichtung der Anlage in Dachau angefuehrt, dass Schilling dort seine Malariaversuche ausfuehrte. (NO-721, Ankl.Bew. 126, R. 404). Obgleich die Denkschrift den Namen "Schlenk" erwachnt, so hat Sievers

ausgesagt, dass der Name haette "Schilling" lauten sollen.
(R. 5693).

Der Zeuge Vieweg hat bekundet, dass Sievers Ende 1943 oder Anfang 1944 mehrmals Schillings Malariastation besucht und dort mehrere Besprechungen mit Ploetner, einem Mitarbeiter Schillings, gehabt habe. (R. 445-7, 464). Er hat erklart, dass Sievers mit Schilling Beratungen abhielt und auch das Laboratorium besichtigte. (R. 423). Sievers hat bekundet, dass diese Besuche und Beratungen die Versetzung Ploetners zum wehrwissenschaftlichen Forschungsinstitut des Ahnenerbekommis zu Zielen hatten.

Eine Reihe von Eintragungen in Sievers' Tagebuch fuer 1944 beweist, dass Sievers mit den Malaria-Versuchen in Verbindung stand und sie unterstuetzte. Am 30. Januar erhielt er von Ploetner einen Aufsatz ueber Malaria. Eine Eintragung vom 22. Februar besagt: "In Sachen Hauptsturmfuehrer Dr. Ploetner muss durch Vermittlung des RGF (Reichsgesundheitsfuehrers Conti) mehr unternommen werden." Neben seiner Taetigkeit mit Schilling arbeitete Ploetner auch mit Rascher an den Blutgruppenversuchen zusammen. (siehe die Eintragungen vom 29. Januar und 14. April). Die Eintragung vom 10. Mai zeigt, dass Raschers Forschungsarbeit Ploetner uebertragen wurde. Offensichtlich war dies eine Folge von Schwierigkeiten, die Rascher aus der Entfuehrung von Kindern durch ihn und seine Frau erwachsen waren. Am 23. Mai 1944 wurde Ploetner mit der Leitung der Ahnenerbeabteilung in Dachau beauftragt. Laut Eintragung vom 31. Mai kamen Sievers und Grawitz hinsichtlich der weiteren Zusammenarbeit Ploetners mit Schilling zu einer Verstaendigung.

Am 21. Juni unterhielt sich Sievers mit Schilling darüber, dass Floetners Tätigkeit bei dem letzteren wegen der Versetzung zum Ahnenerbe eingeschränkt werden musste. Tatsächlich wurde Floetner am 27. Juni zum Abteilungsleiter des Wehrwissenschaftlichen Forschungsinstituts des Ahnenerbes ernannt. Laut Eintragungen vom 24. August 1944 wurde die Zusammenarbeit zwischen Schilling und Floetner vereinbart. (3546-PS, Ankl.Bew. 123, R. 382).

D. Lostversuche (Senfgasversuche) Anklageschrift, Ziffer 6 (D)).

Unter der Leitung von Professor Hirt von der Strassburger Universität wurden vom Winter 1942 bis zum Sommer 1944 Versuche über die beste Behandlungsweise von durch Senfgas verursachten Verletzungen im K.Z. Natzweiler durchgeführt. Die Versuche wurden von Himmler und der Luftwaffe angeordnet und vom Reichsforschungsrat unterstützt. Von Seiten der SS wurden diese Versuche durch die Gesellschaft Ahnenerbe und Sievers unterstützt. (492-PS, Ankl.Bew. 267, R. 1034). Letzterer regelte auch die Zahlung der Forschungsbeihilfen seitens des Ahnenerbes. (NO-3819, Ankl.Bew. 550, R. 10372).

An diesen Versuchen hatte Sievers tätigen Anteil infolge seiner Zusammenarbeit mit den Angeklagten Karl und Rudolf Brandt und mit Hirt und dessen ersten Assistenten Dr. Wimmer.

Es ist aus den Akten ersichtlich, dass Sievers mit Hirt mindestens seit Januar 1942 in Schriftwechsel stand. Und dass er es war, der Himmler

mit Hirt in Beruehrung brachte. (NO-791, Ankl.Bew. 256, R. 1016; NO-792, Ankl.Bew. 257, R. 1017).

Am 9. April 1942 teilte Sievers Hirt schriftlich mit, dass Himmler eingehend von Hirt ueber seine Senfgasversuche unterrichtet zu werden wuensche. Er fuhr dann fort:

"Im Zusammenhang mit besonderen Geheimversuchen, die wir z.Zt. in Dachau durchfuehren, sind wir sicher in der Lage, zur Foerderung dieser Versuche Ihnen einmalige Moeglichkeiten zur Verfuegung zu stellen. Vielleicht koennen Sie doch einmal einen kleinen Geheimbericht fuer den Reichsfuehrer-SS ueber Ihre Lostversuche aufsetzen.

"Eine Reise nach Berlin sollen Sie nun aber vorlaeufig auf keinen Fall machen, zumal der Reichsfuehrer-SS sich ja auch dauernd im Fuehrer-Hauptquartier aufhaelt. Ich habe daher in Aussicht genommen, Sie so bald wie moeglich in Strassburg zu besuchen. Vielleicht laesst sich aber eher fuer Sie eine Reise nach Muenchen durchfuehren, wo ich dann auch Gelegenheit haben wuerde, Sie mit dem Leiter unseres Institutes fuer Entomologie bekanntzumachen und Ihnen auch einen Einblick in unsere Geheimversuche in Dachau geben koennte." (NO-793, Ankl. Bew. 258, R. 1019).

Aus dem Wortlaut des Briefes geht hervor, dass es Sievers selber war, der Himmlers Aufmerksamkeit auf Hirts Forschungsarbeit ueber Lostgas lenkte. Dies wird auch durch die Tatsache bewiesen, dass er bereits am 9. Februar 1942 Hirts Bericht ueber die Anlegung einer Skelettsammlung und ueber die Forschungen auf dem Gebiet der Intravitalmikroskopie dem Angeklagten Rudolf Brandt vorgelegt hatte. Letztere Versuche betrafen die Wirkungen von Lost auf lebendes Gewebe (NO-085, Ankl.Bew. 175, R. 695). Brandt orientierte Himmler ueber Hirts Bericht am 27. Februar und wies Sievers an, weiter ueber die Arbeiten Hirts zu berichten.

(NO-090, Ankl.Bew. 176, R. 699). Es war also der Sieverssche Bericht, der Himmler veranlasste, sich fuer Hirts Lostversuche zu interessieren.

Am 27. Juni 1942 uebermittelte Sievers dem Angeklagten Rudolf Brandt die Mitteilungen Hirts ueber die Verwendung von Senfgas bei der Rattenbekaempfung. In diesem Bericht erwachnt er, dass er noch eine weitere Besprechung mit Hirt ueber diesen Punkt haben werde. Sievers zufolge hat Hirt seine sachverstaendige Ansicht dahingehend abgegeben, dass Senfgas "selbst in einer Verduennung von 1 zu 1000 fuer Menschen gefaehrlich sein koenne, wenn es mit einer genuegend grossen Koerperflaeche in Beruehrung komme." (NO-794, Ankl.Bew. 259, R.1021). Sievers war es, der am 2. Juni 1942 Hirts Bericht ueber seine Versuche ueber die Gaswundenbehandlung mit Vitaminen weitergab. In seinem Begleitschreiben zu diesem Bericht teilte Sievers dem Angeklagten Rudolf Brandt mit, dass er mit Hirt eine Zusammenkunft haben solle, um mit diesem "eine intensivere Anwendung, Fortfuehrung und Beschleunigung seiner Forschungsarbeit zu besprechen." In dem Bericht selbst erklarte Hirt, dass er wegen der Frankreich-offensive noch keine Versuche mit Lostgas an Menschen habe ausfuehren koennen, aber solche Versuche befuervoerwortet, besonders um die Schutzwirkung der Vitaminbehandlung festzustellen. (NO-097, Ankl.Bew. 260, R. 1022).

In einer Denkschrift vom 26. Juni 1942 ueber die Unterstuetzung von Hirts Senfgasforschungen durch das Ahnenerbe schlug Sievers die Einrichtung eines Wehrwissenschaftlichen Forschungsinstituts beim Ahnenerbe vor, um die Forschungsarbeiten Hirts und anderer Wissenschaftler

zusammenzufassen und so die Organisierung und technische Ausfuhrung der Versuche zu erleichtern. Er schlug vor, Hirt zum aktiven Mitglied des neuen Instituts zu ernennen als Chef der Abteilung H (Hirt). Er erklarte gleichfalls, Rascher, der damals zusammen mit Ruff und Romberg Hoehenversuche durchfuhrte, sollte zum Leiter der Abteilung R (Rascher) ernannt werden. Er erklarte, die notwendigen Lieferungen fuer das neue Institut wuerden leichter zu erklaren und verstaendlicher sein, als wenn sie nur unter dem Namen des Ahnenerbes angefordert wuerden. (NO-2210, Ankl.Bew. 483, R. 5850).

Als Ergebnis dieser Vorschlaege des Angeklagten Sievers verfuegte Himmler im Juli 1942 die Schaffung des Instituts fuer Wehrwissenschaftliche Zweckforschung im Rahmen des Ahnenerbes. In seinem Schreiben an Sievers forderte Himmler, das neue Institut "solle die Forschungen des SS-Hauptsturmfuehrers Prof. Dr. Hirt in jeder nur moeglichen Weise unterstuetzen und alle einschlaegigen Forschungen und Arbeiten in gleicher Weise foerdern, die Apparate, Geraete, Hilfsmittel und Mitarbeiter bereitstellen oder beschaffen." (NO-422, Ankl.Bew. 33, R. 136).

Sievers ging daran, die notwendigen Vorbereitungen fuer die Durchfuhrung der Lostgasversuche in K.Z. Natzweiler zu treffen. Am 27. August 1942 teilte er Gluecks vom WVHA mit, dass er gerne Hirt, wenn er ihn in Strassburg besuche, am 31. August mit nach Natzweiler nehmen moechte und ersuchte Gluecks, die erforderlichen

Vereinbarungen mit dem Lagerkommandanten zu treffen. (NO-935, Ankl.Bew. 41, R. 5845). In einem Aktenvermerk vom 17. September 1942 stellte Sievers fest, dass die in seinem an Gluecks gerichteten Schreiben erwähnte Besprechung am 31. August 1942 in Natzweiler stattgefunden habe und dass die Arbeitsbedingungen fuer die vorgeschlagenen Versuche dort guenstig seien. Zur Ausuebung ihrer Taetigkeit in Natzweiler wurden Professor Hirt, Stabsarzt Dr. Wimmer und Dr. Kiesselbach zur Fahrt von Strassburg nach Natzweiler zum Teil ein Auto benutzen muessen, und deshalb muessten den Lagerbehoerden monatlich 20 Liter Benzin zuguteilt werden. (NO-977, Ankl.Bew. 482, R. 5847). In einem Schreiben an Gluecks vom 11. September 1942 erklarte Sievers, dass in Natzweiler die notwendigen Vorbedingungen fuer die Ausfuehrung unserer kriegswissenschaftlichen Forschungsarbeit bestuenden. Er ersuchte Gluecks um Ausstellung der erforderlichen Vollmachten zum Detreten von Natzweiler fuer Hirt, Wimmer und Kiesselbach und bat, Vorsorge fuer ihre Unterbringung und Verpflegung zu treffen. Er fuhr fort:

"Die an Haeftlingen durchzufuehrenden Forschungen sollen in vier Raeumen einer vorhandenen Sanitaetsbaracke ausgefuehrt werden. Es sind dafuer nur geringe bauliche Veraenderungen, insbesondere Einbau eines mit einfachen Mitteln herzustellenden Abzugs, erforderlich. Auf Grund des als Anlage beigefuegten Planes der Bauleitung Natzweiler bitte ich, die Bauleitung zu beauftragen, die Aenderungen durchzufuehren. Alle durch unsere Taetigkeit in Natzweiler entstehenden Kosten werden von hier aus erstattet." (NO-978, Ankl.Bew. 480, R. 5843).

In einer Denkschrift an den Angeklagten Rudolf Brandt klagte

Sievers ueber gewisse Schwierigkeiten, die in Natzweiler infolge mangelnder Zusammenarbeit der Lagerbeamten aufgetreten seien. Besonders entruestet war Sievers ueber die Tatsache, dass die Lagerleitung Bezahlung fuer die Gefangenen verlangte, an denen experimentiert wurde. Er sagte:

"Wenn ich an unsere wehrwissenschaftlichen Forschungen, die wir im KL Dachau durchgefuehrt haben, denke, so muss ich demgegenueber lobend hervorheben, in welcher grosszuegiger und verstaendnisvoller Weise unsere Arbeiten dort gefuerdert wurden und uns jedes Entgegenkommen gezeigt wurde. Von einer Bezahlung der Haeftlinge war nie die Rede. In Natzweiler scheint man aus der Angelegenheit moeglichst viel Geld herauszuschlagen zu wollen. Wir machen die Versuche ja nicht, um irgend einer fixen wissenschaftlichen Idee wegen, sondern, um damit praktisch der Truppe und darueber hinaus im gegebenen Ernstfall dem Deutschen Volk zu nuetzen."

Brandt wurde um kameradschaftliche Hilfe bei der Schaffung der erforderlichen Arbeitsbedingungen in Natzweiler gebeten. (NO-098, Ankl.Bew. 263, R.1028). Auf dieses Memorandum antwortete der Angeklagte Rudolf Brandt am 3. Dezember 1942 und teilte Sievers mit, dass er Gelegenheit gehabt habe, mit Pohl ueber diese Schwierigkeiten zu sprechen, und dass er gemeldet habe, dass sie abgestellt werden wuerden. (NO-092, Ankl.Bew. 180, R. 702).

In seiner Aussage gab der Zeuge Holl eine genaue und eingehende Beschreibung der Art, wie die Lostgasversuche durchgefuehrt wurden. Die Ausfuehrung der Versuche in der Versuchsstation des Ahnenerbes in Natzweiler wurde Jurck Hirt ueberwacht. Mitte Oktober 1942 waren die Vorbereitungen fuer diese Versuche beendet, und ungefaehr im Oktober oder November begannen die eigentlichen Versuche,

nachdem die Versuchspersonen ungefähr 14 Tage lang dieselbe Ernährung erhalten hatten wie die SS-Wachmannschaften. Die erste Versuchsreihe wurde von Hirt an 30 Versuchspersonen mit verflüssigtem Gas vorgenommen. (R. 1051). Trotzdem Hirt vor der Auswahl dieser Versuchspersonen versprochen hatte, er werde sich bei Himmler als Lohn fuer freiwillige Meldung fuer die Versuche fuer ihre Freilassung einsetzen, meldete sich bei allen von Hirt durchgefuehrten Versuchen keine Versuchsperson freiwillig. Unter den Versuchspersonen befanden sich politisch Verfolgte, Russen, Polen, Tschechen und auch einige deutsche Staatsangehoerige. (R. 1052).

Die erste Versuchsreihe wurde von Hirt und einem Offizier der Luftwaffe auf die folgende Art vorgenommen: Ein Tropfen der Fluessigkeit wurde auf den Unterarm der Versuchsperson getraefelt. Nach ungefaehr 10 Stunden zeigten sich Verbrennungen, die sich ueber den ganzen Koerper verbreiteten, ueberall dort, wo Tropfen der Fluessigkeit mit der Haut in Beruehrung gekommen waren. Einige der Versuchspersonen erblindeten teilweise. Die Opfer dieser Versuche hatten furchtbare Schmerzen auszustehen. Taeglich wurden photographische Aufnahmen der Verbrennungen gemacht. Nach funf oder sechs Tagen erfolgte der erste Todesfall. Die Leiche des Opfers wurde seziert, und der Befund ergab, dass die Lungen und andere Organe gresstenteils zerstoert waren. Am naechsten Tage, also am siebten Tag nach dem Versuch, starben weitere sieben der Versuchspersonen.

Die uebrigen 22 wurden nach ungefaehr zwei Monaten in ein anderes Konzentrationslager ueberfuehrt, nachdem sie in genuegender Masse wiederhergestellt und transportfaehig geworden waren. (R. 1052-53). Andere Versuche an Insassen des KZ Natzweiler wurden in der Gaskammer, ungefaehr 500 Meter vom Lager entfernt, durchgefuehrt. Zu je zweien hatten die Versuchspersonen diese Gaskammer zu betreten und mussten kleine, das Gas enthaltende Ampullen zerbrechen. Die Fluessigkeit verdampfte, und die Versuchspersonen mussten die sich entwickelnden Daempfe einatmen. Gewoehnlich wurden die Versuchspersonen ohnmachtig und wurden zur weiteren Beobachtung der Versuchsergebnisse in die Ahnenerbe-Versuchsstation zurueckgebracht. (R. 1053-4). Die Ergebnisse entsprachen annaehernd den in der ersten Versuchsreihe beobachteten. Die Atmungsorgane der Versuchspersonen waren ebenfalls zerstoeert. Die Lungen waren von dem Gas zerfressen. An rund 150 Insassen des KZ wurden Versuche dieser Art vorgenommen. (R. 1054-5). Als Ergebnis solcher Experimente verstarb ungefaehr der gleiche Prozentsatz wie bei der ersten Versuchsreihe. (R. 1056).

Weitere Lostgasversuche wurden durch Einspritzungen vorgenommen. Diese Versuche wurden in einem besonderen Raum, der an den Verbrennungsraum stiess, ausgefuehrt. Die Opfer dieser Versuche starben ohne Ausnahme. (R. 1056). Eine weitere Art Versuche wurde an Versuchspersonen vorgenommen, die die Fluessigkeit durch den Mund einnehmen mussten.

Da Holl vor Weihnachten 1943 nach einem Aussenlager versetzt wurde, war er nicht in der Lage, ueber die Ergebnisse dieser Versuche Auskunft zu geben. (R. 1056). Er kam jedoch jeden Monat einmal in das K.Z. Natzweiler zurueck und konnte daher beobachten, dass die Lostgasversuche bis zum Herbst 1944, als die Alliierten das K.Z. Natzweiler befreiten, fortgesetzt wurden. (R. 1057-8).

Durch Holls Zeugenaussage ist erwiesen, dass Gasversuche an etwa 220 Insassen russischer, polnischer, tschechischer und deutscher Nationalitaet durch Hirt und seine Mitarbeiter durchgefuehrt wurden. Ungefuehr 50 von ihnen starben. Keine der Versuchsperson hatte sich freiwillig gemeldet. (Holl, R.1052, R. 1057).

Am 7. April 1943, als die Lostversuche im vollen Gange waren (oben), ordnete Himmler eine Intensifizierung der Lostforschung an. Ungefuehr zu dieser Zeit wurde der Fortschritt der Hirtschen Lostforschungen durch die Versetzung von Hirts Assistenten Wimmer, der Sanitaetsoffizier der Luftwaffe war, in Frage gestellt. Da Personalangelegenheiten in Sievers' Ressort fielen, richtete dieser an Rudolf Brandt ein Protestschreiben wegen der beabsichtigten Versetzung Wimmers und erklarte, dass die Lostversuche aufhoeren muessten, wenn Wimmer das Wehrwissenschaftliche Forschungsinstitut verliesse. Sievers beschrieb dann, was zu tun war, u. die weiteren Dienste Wimmers an dem Ahnenerbe-Institut sicherzustellen. (NO-193, Ankl.Bew. 264, R.1030).

Am 3. November 1943 stellte Sievers wiederum zwecks Foerderung der Lostversuche und im Interesse ihres Fortganges fuer zwei an den Forschungsarbeiten Hirts beteiligte Assistenten Zeugnisse aus,

um ihnen den Bezug erhöhter Lebensmittelrationen zu ermöglichen. Sievers gab an, dass die Forschungsarbeiten bei der Strassburger Abteilung H (Hirt) des wehrwissenschaftlichen Forschungsinstituts des Ahnenarbes, an denen diese Personen teilnahmen, Arbeiten mit gesundheitsschädlichen Giftstoffen einschloessen, die ihrer Gesundheit Schaden zugefügt hätten. (492-PS, Ankl.Bew. 267, R.1034).

Das Beweismaterial hat klar ergeben, dass Hirt während der Gesamtdauer der Lostversuche mit der Gesellschaft Ahnenerbe verbunden war. Anfang 1944 stellten Hirt und Wimmer die Ergebnisse der Lostversuche in einem Bericht zusammen, der den Titel "Behandlungsvorschlag fuer Kampfstoffverletzungen mit Lost" trug. Als Herausgeber wurde das Institut fuer ^{wehr-}wissenschaftliche Zweckforschung, Abteilung H des Ahnenarbes, Strassburg, Anatomisches Institut, bezeichnet. Leichte, mittlere und schwere Lostverletzungen sind darin erwähnt. Sievers erhielt mehrere Kopien dieses Berichtes. (NO-099, Ankl.Bew. 268, R. 1035). Im 31. März 1944, nachdem Karl Brandt einen Führererlass, der ihm weitgehende Vollmachten auf dem G₀ biete der chemischen Kriegsführung uebertrug, erhalten hatte (NO-012, Ankl.Bew. 270, R. 1038), informierte Sievers Brandt ueber Hirts Arbeiten und uebergab ihm eine Kopie des Berichtes. Der Beweis dafuer liegt in Sievers' Brief vom 11. April 1944 an Rudolf Brandt. (NO-015, Ankl.Bew. 275, R.1039). Karl Brandt gab zu, dass der Wortlaut des Berichtes klar zeigte, dass Versuche an Menschen stattgefunden hatten. (R.2626).

Bewiesen wurde ferner, dass der Angeklagte Blome in seiner Eigenschaft als Bevollmaechtigter im Reichsforschungsrat im Oktober 1943 Hirt einen Auftrag zu Forschungsarbeiten

im Interesse der Foerderung seiner Gasversuche erteilte. Der Beweis dafuer wird durch die Karteikarte in den Akten ueber Blomes Forschungsauftrag im Reichsforschungsrat erbracht, wo der von Blome an Hirt erteilte Auftrag unter SS Vorrangnummer 0329 verzeichnet ist. (NO-690, Ankl.Bew. 120, R.373). Sievers gab zu, dass an Hirt ein Reichsforschungsauftrag "ueber die Wirkung von Lost auf lebende Organismen" erteilt worden war. (R. 5817). Er hat ferner zugegeben, dass Himmeler ihm auf einer Konferenz im April 1942 gesagt habe, Hirt solle Versuche an anderen Menschen und nicht an freiwilligen Offiziersanwaertern durchfuehren. (R. 5679).

Sievers bezeugte, dass er am 25. Januar 1943 in das K.Z. Matzweiler gegangen sei und mit den Lagerbehorden ueber die Vorbereitungen fuer Hirts Lostversuche verhandelt habe. Diese Vorbereitungen schlossen die Beschaffung von Laboratorien und Versuchspersonen in sich ein. (R. 5842-43). Sievers bezeugte, dass die Lostversuche schaedlich waren. (R. 5810). Anlaesslich seines Besuches am 25. Januar 1943 sah Sievers zehn Personen, an denen Lostversuche durchgefuehrt worden waren und beobachtete Hirt beim Wechsel des Verbandes an einer der Personen. Sievers sagte, dass die Versuchspersonen ihm erzaelten, dass sie sich freiwillig gemeldet haetten, und Hirt bestaetigte dies Sievers gegenueber. (R. 5732). Sievers' Zeugnisaussage bezueglich seiner Kenntnis darueber, dass die Lostversuche zu Todesfaellen fuehrten, war widerspruchsvoll. Sievers bezeugte, dass er im Maerz 1943 Hirt gefragt hatte, ob irgendeine der Versuchspersonen durch die Versuche Schaden erlitten habe, und Hirt habe ihm darauf geantwortet, dass zwei der Versuchspersonen aus anderen Gruenden gestorben seien.

(R. 5733). Andererseits schien Sievers Lostversuche im Auge zu haben als er angab, dass er von einem verurteilten Verbrecher wusste, der als Folge der Versuche gestorben sei. (R. 5810). Was die Nationalitaet der Versuchspersonen anbelangt, war Sievers der Meinung, dass nach ihrer Sprache zu schliessen, die Versuchspersonen Deutsche waren. (R. 5812). Die Beweise ergeben jedoch ganz klar, dass Sievers bereits im Januar 1942 Kenntnis davon hatte, dass unfreiwillige Versuchspersonen fuer Hirts Lostversuche verwendet werden sollten. In seinem Schreiben vom 3. Januar 1942 richtete Sievers an Hirt die Bitte, ihm umfassende Berichte ueber seine Forschungen zu uebermitteln, damit er sie an Himmler weitergeben koenne. Sievers versicherte Hirt, dass in der Hirt die Genehmigung zur Durchfuehrung jeder Art von Versuchen an "Gefangenen und wirklichen Verbrechern, die ohnehin niemals freigelassen wuerden, und an zur Hinrichtung bestimmten Personen" erteilen wuerde. (NO-3629, Ankl.Bew. 547, R.10370).

Sievers' Tagebucheintragungen weisen darauf hin, dass er sich hauptsaechlich mit den notwendigen Vorkehrungen fuer die Durchfuehrung der Lostversuche befasste. Am 21. Januar 1943 besuchte Sievers Natzweiler und beriet sich mit der Lagerverwaltung; am 28. Januar 1943 verhandelte Sievers mit Pohl ueber die Fortfuehrung der Lostversuche und traf unzweifelhaft Vorkehrungen fuer die Zuweisung von Versuchspersonen, obwohl er aussagte, dass sich seine Unterredung auf die Zuweisung von Platz fuer Tiere bezogen habe. (R. 5736). Am 24. und 25. Januar erhielt Sievers von Hirt Berichte ueber Lostversuche und am 17. Maerz 1943 wachte Sievers einer Besprechung in

Wehrwissenschaftlichen Forschungsinstitut bei, in der ueber Lostversuche berichtet wurde. (NO-538, Ankl.Bew. 122, R. 379).

E. Meerwasserversuche (Anklageschrift, Ziffer 6 (G))

Bezuglich einer ins Einzelne gehenden Beschreibung des verbrecherischen Charakters der Meerwasserversuche wird auf den Schriftsatz der Anklagebehoerde gegen Schroeder verwiesen.

Die Aufgabe des Ahnenerbtes bei der Durchfuehrung von Meerwasserversuchen, die von Juli bis September 1944 in Dachau stattfanden, bestand hauptsaechlich in der Bereitstellung von Raum und Gerast fuer die Versuche. Sievers traf im Namen des Ahnenerbtes die dazu notwendigen Anordnungen.

Als Folge der von Schroeder ueber Grawitz an Himmler gerichteten Bitte wegen Genehmigung der Durchfuehrung von Meerwasserversuchen an Haeftlingen in Dachau, ordnete Himmler am 8. Juli 1944 an, dass die Versuche an Zigeunern und drei anderen russisch andersgearteten Personen als Kontrollpersonen durchgefuehrt werden sollten. (NO-183, Ankl.Bew. 136, R. 487).

Sievers muss von Himmlers Buero von der obigen Genehmigung zur Durchfuehrung von Versuchen auf Raschers Versuchsstation in Dachau sofort unterrichtet worden sein. Am 27. Juni 1944 war Rascher durch Floetner, als Chef des Ahnenerbe-Wehrwissenschaftlichen ^{Forschungs-} Instituts in Dachau, abgelooest worden. (3546-PS, Ankl.Bew. 123, R. 382, Eintragung vom 27. Juni). Sievers begab sich am 20. Juli nach Dachau und verhandelte mit Floetner vom Ahnenerbe-Institut und dem Angeklagten

Beiglboeck, der die Versuche durchfuehren sollte, ueber die Ausfuehrung der Meerwasserversuche und die Gestellung des Raumes, wo die Versuche unternommen werden koennten. Sievers stimmte zu, den notwendigen Platz in der Abteilung Floetner und im Entomologischen Institut des Ahnenerbes zur Verfuegung zu stellen. (3546-PS oben). Am 26. Juli 1944 gab Sievers an Grawitz einen schriftlichen Bericht ueber die Einzelheiten seiner Besprechung in Dachau. Sievers schrieb, dass auf "unserer" Versuchsstation 40 Versuchspersonen untergebracht werden koennten, dass das Ahnenerbe ein Laboratorium stellen und dass Dr. Floetner den die Versuche durchfuehrenden Luftwaffenaezten Hilfe und Rat und Unterstuetzung leihen wuerde. Sievers gab auch die Zahl und den Einsatz des Personals an, das bei den Versuchen verwendet werden sollte, berechnete die Dauer der Versuche auf einen Zeitraum von drei Wochen und bezeichnete den 23. Juli 1944 als das Datum fuer den Beginn der Versuche, unter der Voraussetzung, dass die Versuchspersonen verfuegbar und der Lagerkommandant von Himmler die notwendigen Befehle erhalten habe. Schliesslich drueckte Sievers die Hoffnung aus, dass die von ihm getroffenen Vorkehrungen einen erfolgreichen Verlauf der Versuche gewaehrleisten wuerden und ersuchte, dass Himmlers Unterstuetzung der Versuche erkennlich werden soll. (NO-182, Ankl.Bew. 137, R. 481). In seiner Zeugenaussage hat Sievers zugegeben, dass er obigen Brief geschrieben und mit Beiglboeck in Dachau gesprochen habe. (R. 5704). Wie der Brief aufzeigt, war Sievers ueber alle Einzelheiten der Meerwasserversuche unterrichtet. Sievers wusste, dass K.Z. Insassen dabei verwendet werden sollten. Sievers' Besprechung

mit Deiglboeck in Dachau fand am 20. Juli statt. Sievers schrieb, dass die Versuche am 23. Juli oder sobald nachdem Versuchspersonen zur Verfuegung stehen und der Lagerkommandant Himmlers Befehl erhalten habe, beginnen wuerden.

Der Zeuge May, der Abteilungsleiter im Entomologischen Institut des Ahnenerbes in Dachau war, hat angegeben, dass dieses Institut auf Ersuchen von Sievers einen Raum bereitstellte, der von der Gruppe Deiglboeck zur Durchfuehrung von Meerwasserversuchen verwendet wurde. (R. 5880). Die Zeugenaussage von Tschofenig beweist, dass mindestens eine der Versuchspersonen als Folge der Meerwasserversuche starb. (R. 9339-40).

G. Fleckfiebersversuche (Anklageschrift, Ziffer 6 (J))

Bezuglich einer ins Einzelne gehenden Beschreibung des verbrecherischen Charakters dieser Versuche wird auf die Schriftsaetze gegen Rose und Schroeder verwiesen.

Sievers nahm an den von Haagen an Insassen des K.Z. Natzweiler durchgefuehrten verbrecherischen Fleckfiebersversuchen teil, indem er die notwendigen Abmachungen bezueglich der Gestellung von Versuchspersonen traf, verwaltungsmaessige Fragen in Zusammenhang mit diesen Versuchen erledigte und indem er die Versuchstation des Ahnenerbes in Natzweiler mit ihrer Ausruestung fuer die Versuche zur Verfuegung stellte.

Am 16. August 1943, als Haagen die Vorbereitungen fuer die Verlegung seiner Fleckfiebersversuche von Schirmeck nach Natzweiler traf, richtete er an Sievers das Ersuchen,

hundert K.Z. Insassen fuer seine Forschungsarbeiten zur Verfuegung zu stellen. Dies geht aus einem Schreiben vom 30. September 1943 hervor, das Sievers an Haagen richtete und in dem er angibt, dass er sich freue, behilflich sein zu koennen, und dass er demgemass mit den geeigneten Stellen in Verbindung treten werde, um ihm das "gewuenschte Personal" zuweisen zu lassen. (NO-120, Ankl.Bew. 297, R. 1387). Als Ergebnis von Sievers' Bemuehungen wurden fuer Haagens Versuche 100 Haeftlinge von Auschwitz nach Natzweiler transportiert. Diese wurden indessen von Haagen in ungeeigneter koerperlicher Verfassung befunden und daher zurueckgewiesen. In einem Schreiben vom 15. November 1943 an Hirt erklarte er, dass 18 der Leute waehrend des Transports gestorben waeren und bat um weitere 100 Gefangene, deren koerperliche Verfassung der von Soldaten gleichkaeme. (NO-121, Ankl.Bew. 293, R.1369). Man koennte geneigt sein anzunehmen, dass Haagen und Sievers in keiner Weise fuer den Tod dieser 18 Insassen verantwortlich waren. Die Anklagebehoerde unterstellt dies als irrig. Der Transport von Auschwitz nach Natzweiler zu Versuchszwecken stand auf jeden Fall in teilweisen Kausalzusammenhang mit dem Tod dieser Leute. Ihr Tod war mit dem Transport verknuepft.

Die zweite Gruppe von hundert Versuchspersonen wurde zur Verfuegung gestellt, und die Versuche wurden von Haagen zwischen Ende 1943 und Fruhsommer 1944 durchgefuehrt. Sie fanden in der Versuchsstation des Ahnenerbes in Natzweiler statt. Dies wird durch Auszuege aus den Monatsberichten der Lageraerzte in Natzweiler bewiesen. (NO-807, Ankl.Bew. 185,

R. 732 siehe zusätzliche Uebersetzung). Haagen hat zugegeben, dass die Auszüge aus diesen Berichten vom 25. November 1943, 24. Dezember 1943 und 1. Februar 1944 sich wahrscheinlich auf seine Fleckfieberversuche bezogen. (R. 9640-1, 9647). Das in dem Schriftsatz der Anklagebehörde gegen den Angeklagten Schroeder umrissene Beweismaterial zeigt, dass im Laufe dieser Versuche eine erhebliche Anzahl von Todesfällen vorkamen.

Am 9. Mai 1944 bat Haagen in einem Schreiben an Hirt, den Chef der Abteilung H im Wehrwissenschaftlichen Forschungsinstitut des Ahnenorbes um weitere 200 K.Z. Insassen fuer seine verbrecherischen Forschungsarbeiten. (NO-123, Ankl.Bew. 303, R. 1396). Dieser Brief wurde an Sievers zur weiteren Veranlassung weitergegeben, und am 19. Mai 1944 richtete dieser an Pohl die Bitte, die Insassen zur Verfügung zu stellen. Er bezog sich auf fruehere Gelegenheiten, bei welchen Pohl Gefangene fuer diese Versuche abgestellt hatte. Sievers schloss mit den Worten:

"Den Bestimmungen gemäss muss Dr. Haagen ueber seine Arbeiten dem Chef des Sanitätswesens der Luftwaffe Bericht erstatten, wobei zu erwahnen ist, mit wessen Unterstuetzung die Arbeiten durchgefuehrt werden; das sind erstens der Reichsforschungsrat und zweitens die SS. Ich bitte Sie um Entscheidung, ob als unterstützende Stelle der SS genannt werden soll:

- a) der Reichsfuehrer-SS oder
 - b) das SS-Wirtschafts-Verwaltungs-Hauptamt oder
 - c) das Institut fuer wehrwissenschaftliche Zweckforschung der Waffen-SS."
- (NO-008, Ankl.Bew. 304, R. 1398).

Eine Abschrift dieses Briefes wurde an den Angeklagten Rudolf Brandt gesandt, der am 6. Juni 1944 an Sievers schrieb,

dass alle drei Aemter als die foerdernden Stellen der SS erwaeht werden sollten. (NO-009, Ankl.Bew. 303, R. 1400). Sievers gab diese Mitteilung wiederum an Hirt weiter, der am 10. Juli 1944 an Haagen schrieb und ihm die geeigneten Anweisungen betreffs des Kredites fuer die Versuche erteilte. (NO-129, Ankl.Bew. 308, R.1403).

Haagens Schreiben vom 27. Juni 1944 an Hirt beweist ueber jeden Zweifel, dass die von ihm durchgefuehrten Versuche die Infektion mit virulentem Fleckfiebertivirus in sich einschlossen, genau so wie es bei den Versuchen in Buchenwald der Fall war. (NO-127, Ankl.Bew. 306, R.1401). Wiederum wurden hier im Laufe dieser Versuche Versuchspersonen getoetet, wie aus dem im Schriftsatz gegen Rose im einzelnen dargelegten Beweismaterial erschen werden kann. Bei allen Versuchen befanden sich unter den Opfern Angehoerige der von Deutschland besetzten Laender..

Sievers verteidigt sich vor allem damit, dass er als Nicht-Mediziner nicht in der Lage war, die volle Bedeutung der durchgefuehrten Versuche zu uebersehen, das heisst, dass er keine Kenntnis davon gehabt habe, dass die Personen kuenstlich mit Fleckfieber infiziert worden waren. In Anbetracht der einseitigen Natur der Zeugenaussage Sievers' kann dieser Verteidigung kein Glauben geschenkt werden. Angesichts Sievers' Teilnahme an diesen ausserst verwerflichen Verbrechen kann er auf keinen Fall sagen, dass er das, was an den von ihm an Haagen ausgelieferten Versuchspersonen begangen wurde, ^{nicht} erkannte. Es war seine Pflicht genau festzustellen, was mit ihnen geschehen sollte.

Das Gesetz gestattet nicht, dass er blindlings irgend jemandem, der gerade darum bittet, menschliche Opfer verschaffte, und dann, nachdem eine grosse Anzahl von ihnen getoetet worden war, vorschuetzte, dass er nicht wusste, was mit ihnen geschehen sollte.

H. Polygal

Das Blutgerinnungsmittel Polygal wurde unter der Leitung des Ahnenerbes entwickelt. Seine Wirksamkeit wurde durch Experimente bestimmt, die von Rascher, dem Abteilungsleiter im Ahnenerbe, an Haeftlingen von Dachau vorgenommen wurden. Sievers war als Reichsgeschaeftsfuehrer des Ahnenerbes fuer die Verwaltungsarbeiten, die mit den Forschungsplaenen des Ahnenerbes in Verbindung standen, verantwortlich.

Obgleich der groesste Teil des Beweismaterials sich auf die Taetigkeit von Sievers in Verbindung mit der Polygalherstellung bezieht, ist es klar, dass Sievers von Rascher Berichte ueber die Polygalforschungsarbeiten erhielt, die ausgefuehrt worden waren, ehe das Polygal vervollkommenet war. Unter dem Datum vom 15. September 1943 unterbreitete Rascher Sievers einen Bericht mit der Ueberschrift "Experimente mit einem neuen Blutstillungsmittel 'Polygal 10'". Sievers wurde gebeten, in Verbindung mit der Polygalerzeugung vorbereitende Schritte zu unternehmen. (NO-611, Ankl. Bew. 239, R. 955).

Sievers erklaerte, dass seine Verbindung mit Polygal nur in der Frage seiner Erzeugung bestand und dass in dieser Verbindung seine einzige Taetigkeit darin bestand, die Ueberfuehrung von Dachauer Haeftlingen, die in der Polygalerzeugung ausgebildet waren, nach Schlachters, welches ein neuer Erzeugungsort war, vorzubereiten. (A. 5725).

Unter dem Datum vom 10. Dezember 1943 wurde Sievers von

Mascher gebeten, Maschers Chemiker-Haeftling, der in Begriff war, entlassen zu werden und Sachau zu verlassen, als Angestellten des Ahnenerbes einzustellen. Mascher teilte Sievers mit, dass die erfolgreiche Behandlung dieser Personalangelegenheit fuer die Fortfuehrung des theoretischen Teils der Polygalforschung wesentlich sei. Als Reichsgeschaeftsfuehrer des Ahnenerbe behandelte Sievers haeufig Personalfragen. (NO-758, Ankl. Bew. 242, R. 962). Am 3. Dezember 1943 wurde Sievers durch Himmlers Amt benachrichtigt, dass die Plaeue fuer die Polygalerzeugung aufgeschoben worden waren auf Grund von Gebhardts Verlangen, dass das Polygal in seinem Hohenlychener Institut geprueft werden sollte, ehe seine Erzeugung endgueltig beschlossen werde. Zu dieser Zeit wurde Sievers auch mitgeteilt, dass Mascher moeglicherweise eine Gelegenheit haben wuerde, mit den Polygalversuchen fortzufahren. (NO-612, Ankl. Bew. 241, R. 961). Es ist also klar, dass Sievers mit der Polygalforschung vor der Zeit in Verbindung stand, als seine Erzeugung im Gegensatz zur Forschung der einzige Faktor war.

Das beweismaterial bei den akten bestaetigt, dass Mascher im Verlauf der Polygalversuche den Versuchspersonen Schusswunden beibrachte, um die Wirksamkeit des Polygals unter Kampfbedingungen zu pruefen. (NO-1424, Ankl. Bew. 462, R. 4773).

In der zweiten Haelfte des Jahres 1943 schrieben Mascher und Dr. Haferkamp eine Abhandlung ueber Polygal. Diese Abhandlung macht einen deutlichen Unterschied zwischen Versuchen an lebenden Menschen, um die Wirkung von Polygal zu praeufen, und klinischen Untersuchungen. Sie erwachnt: "Ehe wir den klinischen Gebrauch des Medikaments versuchten und es ausprobieren liessen, wurde es

durch eingehende Versuche an lebenden Menschen in Bezug auf seinen Einfluss auf die Zeitdauer der Gerinnung und des Blutens geprüfert". Später erörtert die Abhandlung klinische Beobachtungen bei Operationen. (NO-438, Ankl. Bew. 240, R. 956). Die in dieser Abhandlung erwähnten Versuche sind augenscheinlich diejenigen, in deren Verlauf Häftlinge erschossen wurden. So wurden sie allerdings nicht in der Abhandlung beschrieben, da sie zwecks Veröffentlichung geschrieben worden war. Sievers sagte aus, dass ihm, als Rascher 1944 verhaftet wurde, vom Münchener Polizeiamt gesagt worden war, dass Rascher Menschen erschoss, um Polygal auszuprobieren. (R. 5726).

Während des Jahres 1944 beschäftigte Sievers sich aktiv mit der Polygalangelegenheit. Am 22. Februar 1944 besprach er sich mit Rascher wegen eines Polygalberichtes an Gebhardt; am 31. März 1944 erhielt Sievers von Heff die Krankengeschichten der in Polygalbehandlung befindlichen Personen; am 14. April 1944 erklärte Sievers, dass die wichtigste Aufgabe in Wachen die Polygalprüfung sei; am 24. August 1944 verzeichnete Sievers, dass ein neues Blutgerinnungsmittel entwickelt worden war und geprüft werden sollte. Das Tagebuch von Sievers aus dem Jahre 1944 zeigt auch Sievers' ausgedehnte Tätigkeit in Bezug auf die Polygalherzeugung. (3546-PS, Ankl. Bew. 123, R. 382).

I. Skelettsammlung (Anklageschrift, Ziffer 7)

Als Antwort auf eine Bitte des Angeklagten Rudolf Brandt unterbreitete ihm Sievers am 9. Februar 1942 einen Bericht von Dr. Hirt von der Universität Strassburg, dass es erwünscht sei, eine juedische Skelettsammlung zu erlangen. (NO-665, Ankl. Bew. 175, R. 695). In diesem

Bericht beauftragt Hirt die direkte Ermordung von "juedisch-bolschewistischen Kommissaren" zur Beschaffung einer solchen Sammlung. Er bemerkte:

"In den juedisch-bolschewistischen Kommissaren, die ein widerliches aber charakteristisches Untermenschentum verkörpern, haben wir die Möglichkeit, ein greifbares wissenschaftliches Dokument zu erwerben, indem wir uns ihre Schädel sichern.

Die praktische Durchführung der reibungslosen Beschaffung und Sicherstellung dieses Schädelmaterials geschieht am zweckmässigsten in Form einer Anweisung an die Wehrmacht, sämtliche juedisch-bolschewistischen Kommissare in Zukunft lebend sofort der Feldpolizei zu übergeben."

Diese Einheiten hatten einem Sonderamt Bericht zu erstatten, welches Spezialisten aussandte, um photographische Aufnahmen und anthropologische Messungen zu machen und Herkunft, Geburtsdaten und andere Personalangaben der Opfer festzustellen. Hirt bemerkt weiter:

"Nach dem danach herbeigefuehrten Tode des Juden, dessen Kopf nicht verletzt werden darf, trennt er den Kopf vom Rumpf und sendet ihn in eine Konservierungsflüssigkeit gebettet in eigens zu diesem Zwecke geschaffenen und gut verschlossbaren Blechbehältern zum Bestimmungsort. An Hand der Lichtbildaufnahmen, der Masse und sonstigen Angaben des Kopfes und schliesslich des Schädels können dort nun die vergleichenden anatomischen Forschungen, die Forschungen ueber Rassenzugehörigkeit, ueber pathologische Erscheinungen der Schädelform, ueber Gehirnform und -grösse und ueber vieles andere mehr beginnen. Fuer die Aufbewahrung und die Erforschung des so gewonnenen Schädelmaterials waere die neue Reichsuniversitaet Strassburg ihrer Bestimmung und ihrer Aufgabe gemäss die geeignetste Staette." (Unterstreichungen hinzugefuegt).

Am 27. Februar 1942 teilte Brandt Sievers mit, dass Hinder Hirts Arbeit unterstützen und ihm alles Erforderliche zur Verfügung stellen wuerde. Brandt bat Sievers, Hirt entsprechend zu benachrichtigen und wieder ueber Hirts Arbeit Bericht zu erstatten. (NO-090, Ankl. bow. 176, k. 699).

Hirts moerderischer und unmenschlicher Plan wurde auf eine eise ausgefuehrt, die sich nur geringfuegig von dem in seinem Zwischenbericht gemachten Vorschlag unterschied. (NO-085, oben). Das Beweismaterial hat gezeigt, dass man beschlossen hatte, die ganzen Skelette der Opfer und nicht bloss die Schaedel aufzubewahren. Am 2. November 1942 bat Sievers Brandt mit dem Reichssicherheitshauptamt die notwendigen Abmachungen zu treffen, um zur Ausfuehrung dieses Planes 150 juedische Haeftlinge aus Auschwitz zu beschaffen. (NO-086, Ankl. Bew. 177, R. 699). Am 6. November teilte Brandt Adolf Eichmann, dem Chef des Amtes IV-B-4 (Juedische Angelegenheiten), im Reichssicherheitshauptamt, mit, dass er alles Hirt zur Verfuegung stellen solle, was zur Vervollstaendigung der Skelettsammlung erforderlich waere. (NO-089, Ankl. Bew. 179, R. 702).

Aus Sievers' Brief an Eichmann vom 21. Juni 1943 geht hervor, dass SS-Hauptsturmfuehrer Beger, ein Mitarbeiter in der Ahnenerbe-Gesellschaft, die Vorarbeiten fuer die Zusammenstellung der Skelettsammlung im Konzentrationslager Auschwitz an 79 Juden, 30 Juedinnen, 2 Polen und 4 Asiaten vorgenommen hatte. In diesem Brief erklaerte Sievers, dass Beger seine Arbeit wegen der Gefahr der ansteckenden Krankheiten im Lager unterbrechen musste. Sievers bat um die Ueberfuehrung der Haeftlinge, an denen Beger diese Arbeit ausgefuehrt hatte, nach dem Konzentrationslager Natzweiler, da eine weitere Taetigkeit in Auschwitz wegen der Ansteckungsgefahr unmoglich sei. Eine gesonderte Unterbringungslosigkeit sollte fuer die dreissig Frauen "fuer eine kurze Zeit" im Konzentrationslager Natzweiler beschafft werden.

(NO-087, Ankl. Bew. 181, R. 702).

Die Erklärung des Lagerleiters des Konzentrationslagers Natzweiler, SS-Hauptsturmführer Josef Kramer, enthüllt, dass auf Hirts Ansuchen Anfang August 1943 ungefähr 80 Häftlinge des Auschwitzer Konzentrationslagers, darunter Frauen, ins Konzentrationslager Natzweiler überwiesen und dort durch Gas umgebracht worden sind. Zu diesem Zweck war eine besondere Gaskammer erbaut worden. Die Leichen der Opfer wurden in drei Sendungen an Hirts Anatomisches Institut an der Strassburger Universität versandt. (NO-807, Ankl. Bew. 185, R. 732). Dieses Beweismaterial wird durch die Aussage des Zeugen Henrypierre bestätigt. Er bezeugte, dass Anfang August 1943 der erste Autopsietechniker des Anatomischen Instituts Bong von Hirt den Befehl erhielt, die Behälter im Keller des Instituts für ungefähr 120 Leichen vorzubereiten. Mit Zwischenräumen von einigen Tagen kamen drei Leichensendungen, 30 Frauen, 30 Männer, und 26 Männer, in Güterwagen von einem unbekannten Ort an. Alle diese Opfer waren Juden. Diese Leichen wurden im Keller des Anatomischen Instituts in den von Bong vorbereiteten Behältern konserviert. (Henrypierre, R. 712-4). Siehe auch Bagers eidesstattliche Erklärung. (NO-881, Ankl. Bew. 280, R. 1074). Wie durch Sievers' Tagebuch erwiesen ist, war Bager befohlen worden, Gipsabdrücke von den Opfern herzustellen. (3546-PS, Ankl. Bew. 123, R. 382, Eintragung für den 2. Februar 1944).

Anfang September 1944, als die alliierten Armeen Strassburg bedrohten, wandte Sievers sich

an den Angeklagten Brandt mit der Bitte um Anweisungen, was mit den juedischen Leichen geschehen sollte, die noch in den Behaeltern im Keller des Anatomischen Instituts lagerten. Er teilte Brandt mit, dass Hirt imstande sein wuerde, die Leichen zu "entfleischen" und sie so unkenntlich zu machen, aber in diesem Falle waere ein Teil der Arbeit vergeblich getan worden und es waere ein "grosser wissenschaftlicher Verlust fuer diese einzigartige Sammlung, weil danach Hominitabguesse nicht mehr moeglich waeren. Die Skelettsammlung ist als solche nicht auffaellig. Weichteile wurden deklariert als bei Uebernahme Anatomie durch Franzosen hinterlassene alte Leichenteile und zur Verbrennung gegeben." Sievers bat Brandt um eine Anweisung darueber, ob die Sammlung aufbewahrt, teilweise aufgeloeset oder voellig aufgeloeset werden sollte. (NO-088, Ankl. Bew. 132, R. 704).

Aus der Niederschrift des SS-Hauptsturmfuehrers Berg und seinem Telefongespraech mit Sievers am 15. Oktober 1944 ist zu ersehen, dass zunaechst beschlossen worden war, die Unterlagen fuer diese grausamen Verbrechen zu vernichten, aber nach einer zeitweisen Besserung der militaerischen Lage wurde dieser Beschluss aufgehoben. Am 21. Oktober 1944 teilte Sievers Berg mit, dass die Aufloesung der Sammlung in Uebereinstimmung mit den fruher erhaltenen Befehlen, zu Ende gefuehrt worden sei. (NO-091, Ankl. Bew. 183, R. 705). Aber dies war nicht der Fall. Hirt hatte Bong und seinen Assistenten Meyer beauftragt, die 86 Leichen zu zergliedern und sie im Strassburger Krematorium verbrennen zu lassen; aber diese beiden Maenner waren allein nicht imstande, diese ungeheure Aufgabe zu bewaeltigen. Eine Anzahl von Leichen blieben unzerlegt und

verblieben in den Schaltern zusammen mit teilweise sorgliederten Leichen, um den Eindruck zu erwecken, dass sie zu normalen anatomischen Forschungsarbeiten gebraucht worden waren. (Henry Pierre, R. 715; NO-881, oben).

Die von den französischen Behörden nach der Befreiung Strassburgs gemachten Aufnahmen von diesen Leichen und von den Gaskammern im Konzentrationslager Natzweiler, wo die Opfer der juedischen Skelettsammlung ermordet wurden, erzahlen die grausame Geschichte dieses Massenmordes lebendiger als Zeugen und Dokumente es je tun koennten. (NO-483, Ankl. Bew. 184, R. 724; NO-807, oben).

Von dem Augenblick an, wo Sievers Hirts Bericht (NO-085, Ankl. Bew. 175, R. 695) erhielt, wusste er, dass fuer die Beschaffung der Skelettsammlung ein Massenmord geplant war. Nichtsdestoweniger nahm er an der Ausfuehrung dieses Planes teil, sandte einen Angestellten des Ahnenerbes in das Konzentrationslager Auschwitz, um die vorbereitende Auswahl zu treffen und sorgte fuer die Ueberfuehrung der Opfer aus Auschwitz nach Natzweiler. Er traf Vorkehrungen fuer die Vernichtung der Sammlung. Seine Schuld und die Schuld des Angeklagten Rudolf Brandt ist viel groesser als die des brutalen und gefuehllosen Kramer, der die Juden in Natzweiler persoenlich vergaste. Diese Verbrechen waren fast ausschliesslich von den Angeklagten Sievers und Rudolf Brandt und Hirt in Szene gesetzt worden. (Siehe Tagebuch Sievers fuer 1943, NO-538, Ankl. Bew. 122, R. 379, Eintragungen fuer den 10. Februar, 28. April, 21. und 22. Mai, 16. und 23. Juni).

III. SCHLUSS

Sievers' einzige Antwort auf die furchtbaren Verbrechen, an denen er beteiligt war, ist erstens, dass er Mitglied einer Widerstandsbewegung war und zweitens, dass er auf hoeheren Befehl handelte. Beide Rechtfertigungen haben keinerlei Wert. Was den hoeheren Befehl anbetrifft, zeigt das Beweismaterial nicht, dass Sievers diese Verbrechen auf Befehle hin ausfuehrte. Er tat das vorsatzlich und aus "Geschaeftsgewohnheit". Jedenfalls sollte ein hoeherer Befehl nicht als Bildierungsgrund von einem Manne angefuehrt werden, der sich an so strafwuerdigen Verbrechen beteiligt hat, wie diejenigen, mit denen sich die Anklageschrift beschaeftigt. Wenn jemand an der kaltbluetigen Ermordung von 86 Juden aktiv teilgenommen hat, kann ein hoeherer Befehl unmoglich als mildernder Umstand angesehen werden.

Die Verteidigung, dass er an einer Widerstandsbewegung teilgenommen habe, ist laecherlich und absurd. Vor allem ist sie im hoechsten Grade unwahr. Man koennte gondigt sein, einer Erklaerung zu glauben, dass ein hoher Offizier in der SS vielleicht im Jahre 1944 einer anti-Nazi Clique beitrug, als es allen, die sich die Muhe machten, die Augen zu oeffnen, klar geworden war, dass Deutschland den Krieg verloren hatte. So haben wir das Attentat des 20. Juli auf Hitler. Aber der elende Sievers hat die Unverfroehlichkeit zu behaupten, dass er schon 1933 Widerstand leistete und seine Taetigkeit bis zum Ende des Krieges fortsetzte. Dennoch hat Sievers in diesen vierzehn Jahren bis zum heutigen Tage nicht eine offenkundige Handlung gegen die Laenner versucht, welche das System einfuehrten, das er jetzt vorgibt verabscheut zu haben. Er trat schon 1929 in die Nazi-Partei ein und 1935 in die SS. Er blieb mit Himmlers Bande bis in

die letzten Tage des Zusammenbruchs. Nicht mit einem Worte oder einer Tat kann er seine absurde Behauptung beweisen. Selbst nach Kriegsende hatte Sievers bemerkenswerte Gelegenheiten zu beweisen, dass er wenigstens jetzt bereit war, den Verbrechern Widerstand zu leisten, die die Naziregierung leiteten und an ihren mannigfaltigen Verbrechen teilnahmen, aber er kam 1946 nicht nach Nuernberg, um zu den furchtbaren Verbrechen, ueber die er aus erster Hand unterrichtet war, Aussagen zu machen. Er kam, um fuer die Verteidigung der SS zu zeugen. In seiner Zeugenaussage vor dem Internationalen Militaergerichtshof leugnete er konsequent jegliche Kenntnis von oder Verbindung mit den durch das Ahnenerbe oder die SS begangenen Verbrechen. In dem Verhoer erwies er sich als der Moerder und Verraeuder, der er in Wirklichkeit ist, aber dieses erst durch das Kreuzverhoer der Anklage. Auch zeigte er in diesem Verhoer keine Anzeichen von Widerstand ausser gegen die vielen Verbrechen, die ihm zur Last gelegt wurden. Er nahm eine Schluesselstellung in der verbrecherischen Verschwuerung ein, dennoch offenbarte er diesem Gerichtshof nicht eine neue Tatsache, obgleich er bei verschiedenen Gelegenheiten ausdruuecklich gebeten worden war, alles zu sagen, was er wusste. Im Gegenteil, er hat vielen der Angeklagten auf der Anklagebank Unterlagen fuer ihre Verteidigung verschafft. Er ist der Meinung, dass nicht ein Schuldiger auf der Anklagebank sass, und am wenigsten er selbst. Diese letzte verzweifelte Verteidigung von Sievers, dem vielleicht mehr als irgendeinem anderen auf der Anklagebank nachgewiesen worden ist, dass er ein Erzaeugner und kaltbluetiger Moerder gewesen ist, wird durch einen Brief von seiner eigenen Hand widerlegt. Der grausige Beweis fuer seine Verbrechen in Verbindung mit der juedischen Skelettsammlung war gefunden worden, als

die Alliierten Strassburg einnahmen. In dem Zusammenhang schrieb er am 20. Januar 1945 an Hirt wie folgt:

"Ihr Bericht ueber Strassburg ist richtig eingegangen. Vielen Dank dafuer. Wenn ich Ende des Monats wieder in Malschonsfeld bin und inzwischen dann dort keine weitere Mitteilung von Ihnen vorliegt, werde ich veranlassen, dass die in letzter Zeit an Sie abgesandten Briefe gegebenenfalls noch einmal hinausgehen.

Sowohl Paris wie London beschaeftigen sich inzwischen ganz munter mit der Strassburger Anatomie, wobei bedauert wird, Sie nicht gefasst zu haben. Ueber das Kultusministerium werden Sie wohl inzwischen eine diesbezugliche Anfrage des Auswaertigen Amtes zur Stellungnahme schon erhalten haben oder demnaechst bekommen. Seien wir froh, dass wir alle Arbeitsunterlagen rechtzeitig vernichtet haben. Mit konkreten Angaben konnte die Gegenseite bisher nicht aufwarten. Wie ich Ihnen schon schrieb, wuerde ich mich sehr freuen, wenn Sie gelegentlich einer Fahrt nach Muerzburg einen Abstecher nach Malschonsfeld machen." (NO-975, Ankl. Bew. 479, R. 5837). (Unterstreichungen hinzugefuegt).

So sehen wir also einen angeblichen Arbeiter der Widerstandsbewegung sich ueber die Tatsache freuen, dass "alle Arbeitsunterlagen rechtzeitig vernichtet" wurden. Jeder wahre Arbeiter der Widerstandsbewegung haette mit grosser Sorgfalt alle die Papiere und Unterlagen ueber die Naziverbrechen aufbewahrt und haette die alliierten Armeen empfangen mit offenen Armen und ihnen dieses Beweismaterial uebergeben.

Aber wenn man sogar die Wahrheit einer jeden Laege, die Sievers ausgesagt hat, annehmen wuerde, ist seine Behauptung keinerlei Verteidigung. Das Gesetz sieht nicht vor, dass ein Arbeiter der Widerstandsbewegung kein Verbrechen begehen kann und am allerwenigsten gerade an den Menschen, die er beschuetzen sollte. Das Gesetz sieht nicht vor, dass ein Geheimagent, nicht einmal ein F. B. I. Agent, sich einer Koerperbande anschliessen, mit ihnen Plaene aushecken, die Anordnungen ausfuehren, die Beute teilen,

SIEVERS

und dann froehlich seines Weges gehen kann! Viele Polizeibeamte sind fuer schuldig befunden worden, weil sie mit Verbrochern gemeinsame Sache gemacht und an Verbrechen teilgenommen haben.

Die Anklagebehoerde unterstellt, dass das Beweismaterial ergibt, dass Wolfram Sievers Haupttaeter, Teilnehmer, Anstifter, Vorschubleistender war, seine Zustimmung gab und in Verbindung stand mit Plaenen und Unternehmen, die die Durchfuehrung medizinischer Versuche ohne Zustimmung der Betroffenen zum Gegenstand hatten, und Mitglied einer Organisation oder Gruppe war, die in Verbindung stand mit diesen Versuchen, in deren Vorlauf mordeten, Brutaltaten, Grausamkeiten, Folterungen, Greuelthaten und andere unmenschlichen Handlungen und die Ermordung von mindestens 86 Juden zum Zwecke einer Skelettsammlung begangen wurden. Seine Schuld im Sinne der Punkte I, II, III und IV der Anklageschrift ist erwiesen.

"ENDE"

Ich, Fred Lax, # X 046207, bestaetige hiermit, dass ich durchaus vertraut mit der englischen und deutschen Sprache bin, und dass das Vorstehende eine wahrheitsgemaeesse und richtige Uebersetzung des Dokumentes "Wolfram Sievers" darstellt.

Nuernberg, 25. Juli 1947

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